

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006; Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 07-1 refers to January 2007; Volume No. 07-2 refers to February 2007; and so forth. Example: The Bulletin published in January of 2007 is cited as Volume 07-1. The December 2006 Bulletin is cited as Volume 06-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

*The **Idaho Administrative Bulletin** is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.*

*The **Idaho Administrative Code**, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.*

***Individual Rule Chapters** and **Individual RuleMaking Dockets**, are specific portions of the Bulletin and Administrative Code produced on demand.*

***Internet Access** - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>*

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

*Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “**IDAPA**” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “**TITLE**” number is assigned. There are “**CHAPTER**” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:*

IDAPA 38.05.01.200.02.c.ii.

*“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.*

*“**38.**” refers to the Idaho Department of Administration*

*“**05.**” refers to Title 05, which is the Department of Administrations’s Division of Purchasing*

*“**01.**” refers to Chapter 01 of Title 05, “Rules of the Division of Purchasing”*

*“**200.**” refers to Major Section 200, “Content of the Invitation to Bid”*

*“**02.**” refers to Subsection 200.02.*

*“**c.**” refers to Subsection 200.02.c.*

*“**ii.**” refers to Subsection 200.02.c.ii.*

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a “DOCKET NUMBER.” The “Docket Number” is a series of numbers separated by a hyphen “-”, (38-0501-0701). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-0701”

“38-” denotes the agency’s IDAPA number; in this case the Department of Administration.

“0501-” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

“0701” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in **calendar year 2007**. A subsequent rulemaking on this same rule chapter in calendar year 2007 would be designated as “0702”. The docket number in this scenario would be 38-0501-0702.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

“...as found in Section 201 of this rule.” OR “...in accordance with Subsection 201.06.c. of this rule.”

The citation may also include the IDAPA, Title, or Chapter number, as follows”

“...in accordance with IDAPA 38.05.01.201...”

“38” denotes the IDAPA number of the agency.

“05” denotes the TITLE number of the rule.

“01” denotes the Chapter number of the rule.

“201” denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

“...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, “Rules Governing Capitol Mall Parking.”

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2007

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
07-1	January 2007	*November 15, 2006	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 25, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 23, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 27, 2007
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07-8	August 2007	June 29, 2007	August 1, 2007	August 22, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 26, 2007
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07-11	November 2007	October 5, 2007	November 7, 2007	November 28, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 26, 2006

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	*November 14, 2007	January 2, 2008	January 22, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
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08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
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08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2006

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Incorporates by reference the 2007 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.

Incorporates by reference American Society of Testing and Materials (ASTM) D975-07a, Standard Specification for Diesel Fuel Oils and ASTM D6751-07a, Standard Specification for Biodiesel Fuel (B100) Blend Stock for distillate Fuels.

Adds definitions for Biodiesel and add a new section containing identification and retail labeling requirements for Biodiesel.

Eliminates loaf size restriction for bread to harmonize this rule with Section 71-236, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Schafer, Section Manager at 332-8690.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 20th day of July, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701-0790
Phone 332-8500, Fax 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-0701

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2006~~7~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (3-30-07)()

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). ()

034. Local Availability. Copies of Handbook No. 44 and Handbook No. 133 are on file with the State Law Library and the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading on the internet by going to <http://nist.gov>. Copies of ASTM D975 and ASTM D6751 are on file with the State Law Library and the Idaho State Department of Agriculture or may be purchased from ASTM. (2-13-04)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Sections 71-108 and 71-401, Idaho Code. (10-26-94)

01. Biodiesel. A fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100. ()

02. Biodiesel Blends. A fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend. ()

03. Person. The word "person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. ()

(BREAK IN CONTINUITY OF SECTIONS)

351. BIODIESEL.

Identification and labeling requirements for biodiesel. ()

01. Identification of Product. Biodiesel and biodiesel blends shall be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel. (Examples: B10, B20, B100). ()

02. Labeling of Retail Dispensers. Each retail dispenser of biodiesel or biodiesel blend containing more than five percent (5%) shall be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with the either "biodiesel" or "biodiesel blend." (Examples: B10 biodiesel, B20 biodiesel blend). ()

a. The label shall have letters in bold face block not less than one-half (1/2) inch high. The lettering shall be clearly legible on a contrasting background. ()

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the dispenser as near the unit price display as practical. ()

03. Documentation for Dispenser Labeling Purposes. ()

a. The retailer must be provided a declaration of the volume percent of the biodiesel on an invoice, bill of lading, shipping paper, or other document, at the time of delivery of the fuel. ()

b. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending. ()

04. Exemption. Biodiesel blends containing five percent (5%) or less biodiesel by volume are exempted from the requirements of Section 351 of this rule. ()

05. Penalties. Any person who violates any provisions of these rules shall be punished as provided for in Sections 37-2501 and 37-2520, Idaho Code. ()

~~3542.~~ -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

500. BREAD.

As of October 1, 1971, eight (8) ounces, sixteen (16) ounces, twenty-four ounces (24), or a multiple of one (1) pound, labels and weights of bread loaves, shall be adhered to, and in no case shall any other labels or weights of loaves of bread be in commerce within the boundaries of the state of Idaho unless in compliance with Each loaf of bread kept, offered, or exposed for sale, whether or not the bread is packaged or sliced, shall be sold by weight, as per Section 71-236 of Title 71, Chapter 2, Idaho Code. (7-1-93)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.03.01 - RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-0701

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Tuesday, September 18, 2007

7:00 -- 8:00 pm

Nampa Civic Center

311 Third Street South

Nampa, ID 83651

Wednesday, September 19, 2007

7:00 -- 8:00 pm

Owyhee County Courthouse

31 E. Wyoming Avenue

Homedale, ID 83628

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The additional chemical-specific rules will be associated with steps to prevent DCPA from impacting Idaho's ground water in the future. In addition, it updates the incorporation by reference and the abbreviations sections.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because a committee comprised of industry and multi-agency members was used to develop the rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Bahr, Agriculture Section Manager at 208-332-8597.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 1st day of August, 2007.

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701
Phone: 208-332-8500
Fax: 208-334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0301-0701

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (4-6-05)

01. Dimethyl Tetrachloroterephthalate (DCPA) Pesticide Management Plan. The June 2007 edition published by the Idaho State Department of Agriculture. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. ()

042. IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. of the Department of Environmental Quality. Copies can be obtained from the Office of Administrative Rules, 650 W. State St., PO Box 83720, Boise, ID 83720-0306 or electronically accessed at www2.state.id.us/adm/adminrules/rules/idapa58/0111.pdf. (4-6-05)

023. Idaho Agricultural Pollution Abatement Plan. The March 2003 edition published by the Idaho Soil Conservation Commission. Copies may be accessed electronically at www.scc.state.id.us/PDF/AgPlan.pdf. (4-6-05)

034. The 20047 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Pesticide Management Code 595. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. (~~4-6-05~~)()

045. The 2004 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Agrichemical Mixing Facility Code 702. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. (4-6-05)

056. The 20046 Publication by the United States Environmental Protection Agency, Office of Water, 20046 Edition of the Drinking Water Standards and Health Advisories, EPA 822-R-046-00513. Copies can be accessed electronically at www.epa.gov/waterscience/drinking/standards/dwstandards.pdf. (~~4-6-05~~)()

(BREAK IN CONTINUITY OF SECTIONS)

011. ABBREVIATIONS.

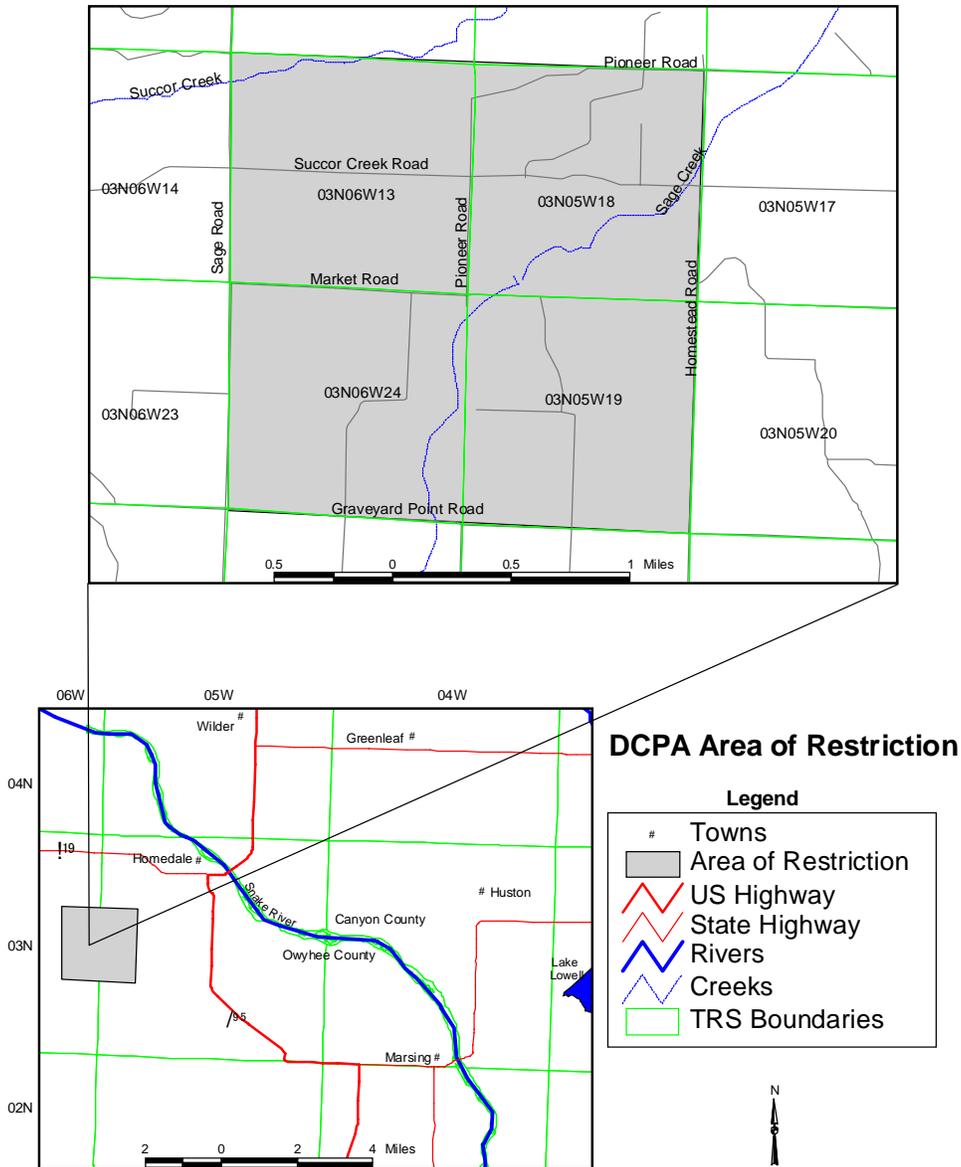
- 01. APAP.** Agricultural Pollution Abatement Plan. (4-6-05)
- 02. BMP.** Best Management Practice. (4-6-05)
- 03. DCPA.** Dimethyl Tetrachloroterephthalate. ()
- 034. DEQ.** Department of Environmental Quality. (4-6-05)
- 045. EPA.** Environmental Protection Agency. (4-6-05)
- 056. HAL.** Health Advisory Level. (4-6-05)
- 067. MCL.** Maximum Contaminant Level. (4-6-05)
- 078. NRCS.** Natural Resources Conservation Service. (4-6-05)
- 089. PMP.** Pesticide Management Plan. (4-6-05)

- ~~0910.~~ QAPP. Quality Assurance Project Plan. (4-6-05)
~~101.~~ QMP. Quality Management Plan. (4-6-05)
~~142.~~ RfD. Reference Dose. (4-6-05)
~~123.~~ SCC. Soil Conservation Commission. (4-6-05)
~~134.~~ USDA. United States Department of Agriculture. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

102. DCPA CHEMICAL SPECIFIC PMP.

- 01. Introduction.** ()
a. The department hereby establishes rules for a DCPA PMP; ()
b. The purpose and intent of these rules are to decrease and minimize the presence of DCPA in the ground water in the area of pesticide restriction near Homedale, Owyhee County as defined in Subsection 102.03 of these rules; ()
c. All users of DCPA within the area of pesticide restriction must follow the DCPA PMP. ()
02. DCPA Chemical. ()
a. DCPA is the active ingredient, along with all DCPA metabolite(s), subject to the DCPA PMP; ()
b. The department hereby uses the EPA HAL of seventy (70) parts per billion (ppb) as the DCPA reference point. ()
03. Area of Pesticide Restriction. The area subject to the DCPA PMP is the area south of Homedale located in Owyhee County. It is the area designated as Township 03 North, Range 05 West, Sections 18 and 19; and Township 03 North, Range 06 West, Sections 13 and 24. ()



04. User Requirements of DCPA Within the Area of Restriction. The DCPA PMP will be adopted by incorporation and the contents will be consistent with the requirements of Section 100 of this rule and shall include the following key elements: ()

a. All users of DCPA must attend an ISDA approved DCPA training program prior to DCPA application: ()

b. All users of DCPA must comply with the DCPA restrictions listed in the DCPA PMP. ()

05. Public Notification. ()

a. The department will notify licensed pesticide applicators and dealers within and near the area of pesticide restriction, by mail, of the DCPA PMP and its requirements upon rule adoption and when rule revisions are adopted; ()

b. The department will provide notice of the DCPA PMP and proposed revisions to residents within the area of pesticide restriction and the public in general. ()

06. Monitoring and Evaluation. ()

a. Monitoring will be conducted in accordance with Sections 200 and 300 of this rule to determine success of the reduction in DCPA in the ground water; ()

b. Routine inspections in the area of pesticide restriction in accordance with Section 200 of this rule will be utilized to assess the level of compliance with the DCPA PMP; ()

c. Review of the DCPA PMP in accordance with Subsection 101.02 of this rule. ()

07. Pesticide Use and Records Requirements. Any person using DCPA within the area of restriction shall maintain records for a period of three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director pertaining to the use of DCPA. The records shall be kept in a location designated by the user of DCPA and maintained in accordance with Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," Subsection 150.02. ()

08. Repeal Process. The repealing of the DCPA area of pesticide restriction shall be completed in accordance with Section 410 of these rules. ()

~~1023.~~ -- 149. (RESERVED).

150. GROUND WATER QUALITY REFERENCE POINTS.

01. Reference Points. The Director will use reference points for pesticides in ground water, based on the following order of availability: (4-6-05)

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or (4-6-05)

b. EPA Health Advisory Levels (HALs) identified in the 2004~~6~~ Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-04~~6~~-005~~13~~; or (~~4-6-05~~)()

c. EPA Reference Dose (RfD) identified in the 2004~~6~~ Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-04~~6~~-005~~13~~; or (~~4-6-05~~)()

d. A reference point based on: (4-6-05)

i. Best scientific information currently available on adverse effects of the contaminant(s); and (4-6-05)

ii. Protection of a beneficial use(s); and (4-6-05)

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. (4-6-05)

02. HAL and RfD Guide. The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. (4-6-05)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.17 - RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL
DOCKET NO. 02-0417-0701
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-237, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 13, 2007
6:30 - 7:00 pm
Nampa Civic Center
311 Third Street South, Nampa, ID 83651

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule clarifies the rules governing the movement and disposal of dead animals to make it clear that livestock that are harvested may not be left to decompose, and any variance from the rule must be approved in writing.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is necessary to protect the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. However, this rule has been discussed with the affected livestock industries.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 30th day of July, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0417-0701

010. DEFINITIONS.

- 01. Abandon.** To desert or intentionally leave a dead animal without proper disposal as provided in these rules. (3-15-02)
- 02. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries. (3-15-02)
- 03. Air Curtain Incineration.** A mechanical process of incineration by which super-heated air is continuously circulated to enhance combustion. (3-15-02)
- 04. Burial.** Interment of a dead animal below the natural surface of the ground. (3-15-02)
- 05. Burning.** The act of consuming or destroying by fire with or without the use of an accelerant. (3-15-02)
- 06. Composting.** The biological decomposition of organic matter under controlled conditions. (3-15-02)
- 07. Dead Animals.** Carcasses and parts of carcasses from dead animals including domesticated livestock, sheep, goats, poultry, pets, and commercial fish. (3-15-02)
- 08. Dead Animal Emergencies.** Those situations involving dead animals that may require extenuating disposal measures as determined by the Administrator. (3-15-02)
- 09. Decomposition.** The decay of dead animals under natural conditions. (3-15-02)
- 10. Digestion.** A process by which organic matter is hydrolyzed. (3-15-02)
- 11. Director.** The director of the Idaho State Department of Agriculture. (3-15-02)
- 12. Disposal.** The management of a dead animal. (3-15-02)
- 13. Domesticated Livestock.** Bovidae, suidae, equidae, captive cervidae, ~~captive antilocapridae,~~ camelidae, ratitidae, gallinaceous birds and captive waterfowl. ~~(3-15-02)~~(9-1-07)T
- 14. Harvested.** Domesticated livestock killed by a person if any portion of the carcass is salvaged. (9-1-07)T
- ~~**145. Incineration.** The controlled and monitored combustion of dead animals for the purposes of volume reduction and pathogen control. (3-15-02)~~
- ~~**156. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-15-02)~~
- ~~**167. Pets.** Cats, dogs, and other non-human species of animals that are kept as household companions. (3-15-02)~~
- ~~**178. Rendering.** The process or business of recycling dead animals and animal by-products. (3-15-02)~~
- ~~**189. Sanitary Landfill.** A solid waste disposal site permitted or approved by the Idaho Department of~~

Environmental Quality.

(3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

030. DISPOSAL OF DEAD ANIMALS.

Dead animals shall be disposed of within seventy-two (72) hours after knowledge of the death of the animal or as provided by the Administrator. No person shall dispose of a dead animal on the land of another without the permission of the property owner. Disposal shall be by one (1) of the following methods: (3-15-02)

01. Dead Animals on Federally Managed Land. Animals that die on federally managed rangeland from causes other than significant infectious or contagious diseases or agents shall be disposed of as provided by the rules and regulations of the responsible land management agency. (3-15-02)

02. Disposal Methods Determined by the Administrator. The Administrator may determine the appropriate method of disposal for animals that die of significant infectious or contagious diseases or agents. (3-15-02)

03. Rendering. If a licensed and approved rendering facility accepts the dead animal, rendering is an approved method of disposal. (3-15-02)

a. When carcasses are held for pickup, the site shall be screened from public view, in a dry area and not in a water runoff or drainage area. (3-15-02)

b. Run-off from the holding area must be contained. (3-15-02)

04. Burial. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three (3) feet of earth. The location of a burial site shall be: (3-15-02)

a. At least three hundred (300) feet from any wells, surface water intake structures, and public or private drinking water supply lakes or springs. (3-15-02)

b. At least three hundred (300) feet from any existing residences. (3-15-02)

c. At least fifty (50) feet from property lines. (3-15-02)

d. At least one hundred (100) feet from public roadways. (3-15-02)

e. At least two hundred (200) feet from any body of surface water such as a river, stream, lake, pond, intermittent stream, or sinkhole. (3-15-02)

f. Burial sites shall not be located in low-lying areas subject to flooding, or in areas with a high water table where the seasonal high water level may contact the burial pit. (3-15-02)

05. Disposal in an Approved Sanitary Landfill. Arrangements shall be made with a city, county, regional, or private landfill official in order to dispose of a dead animal in a city, county, regional, or private landfill. (3-15-02)

06. Composting. (3-15-02)

a. Composting of dead animals shall be accomplished in a manner approved by the Administrator. (3-15-02)

b. No composters that have been approved by other agencies shall begin composting dead animals

without the approval of the Administrator. (3-15-02)

07. Digestion. Digestion of dead animals shall be accomplished in a properly designed and sized dead animal digester approved by the Administrator. (3-15-02)

08. Incineration. (3-15-02)

a. Incineration of dead animals shall be accomplished in an approved incineration facility, or by a mobile air curtain incinerator at a site approved by the Administrator. (3-15-02)

b. The incineration shall be thorough and complete, reducing the carcass to mineral residue. (3-15-02)

09. Burning. Open burning of dead animals is not allowed, except as authorized by the Administrator, in coordination with the Department of Environmental Quality. (3-15-02)

10. Decomposition. Animals that die on private or state rangeland, except domesticated livestock that are harvested, from causes other than significant infectious or contagious diseases or agents may be left to decompose naturally provided that: ~~(3-15-02)~~(9-1-07)T

a. They are at least one thousand three hundred twenty (1,320) feet from any wells, lakes, ponds, streams, surface water intake structures, public or private drinking water supply lakes, springs or sinkholes. (3-15-02)

b. They are at least one thousand three hundred twenty (1,320) feet from any public roadways. (3-15-02)

c. They are at least one thousand three hundred twenty (1,320) feet from any residence not owned by the owner of the dead animal. (3-15-02)

11. Allowance for Variances by the Administrator. The Administrator may grant written variances to the requirements of Section 030 on a case-by-case basis. ~~(3-15-02)~~(9-1-07)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-601 and 25-3704, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

**Thursday, September 13, 2007
7:00 - 9:00 pm
Nampa Civic Center
311 Third Street South, Nampa, ID 83651**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule updates and clarifies the domestic cervidae rules including the following sections: Official Identification, Inventory Verification, and adds a new section for Visible Identification.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is necessary to protect the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. However, this rule was developed with input from the domestic cervidae industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 30th day of July, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500 / Fax (208) 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-0701

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)

02. Administrator. Administrator of the Division of Animal Industries or his designee. (4-2-03)

03. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

04. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

05. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

06. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

07. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)

08. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)

09. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)

11. Commingling. Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)

12. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

13. CWD-Adjacent Herd. A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)

14. CWD-Exposed Animal. A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-

- exposed herd. (4-2-03)
- 15. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but: (4-2-03)
- a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)
- b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)
- c.** Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)
- 16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)
- 17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)
- 18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)
- 19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)
- 20. Department.** The Idaho State Department of Agriculture. (4-2-03)
- 21. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)
- 22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)
- 23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)
- 24. Disposal.** Final disposition of dead cervidae. (4-2-03)
- 25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)
- 26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)
- ~~**27. Domestic Cervidae Approved Feedlot.** A domestic cervidae ranch, which is a confined dry lot area, where selected domestic cervidae can be secured and isolated from all other domestic and wild cervidae and livestock for the purpose of feeding for slaughter only with no provisions for grazing. (4-2-03)~~
- 287. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)
- ~~**298. Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)~~
- ~~**3029. Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)~~

- 340. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)
- 321. Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)
- 332. Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)
- 343. Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)
- 354. Individual Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-2-03)
- 365. Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)
- 376. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)
- 387. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)
- 398. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)
- 4039. Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)
- 440. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)
- 421. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)
- 432. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)
- 443. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)
- 454. Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)
- 465. Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)
- 476. Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)
- 487. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

- 498.** **State Animal Health Official.** The Administrator, or his designee. (4-2-03)
- 5049.** **Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)
- 540.** **Trace Back Herd.** An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)
- 521.** **Trace Forward Herd.** A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)
- 532.** **Traceback.** The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)
- 543.** **Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)
- 554.** **Wild Ungulate.** Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)
- 565.** **Wild Ungulate Cooperative Herd Plan.** A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

022. TYPES OF OFFICIAL IDENTIFICATION.

All domestic cervidae shall be individually identified by two (2) of the following types of official identification, at least one (1) of the types of official identification must be a bangle or lamb tag that is visible from one hundred fifty (150) feet. (~~4-2-03~~)(9-1-07)T

- 01. Official USDA Eartag.** (4-2-03)
- 02. Tattoo.** Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied to either the ear or escutcheon. (4-6-05)
- 03. Electronic Identification.** A form of electronic identification, approved by the Administrator. (4-6-05)
- 04. Official NAEBA Eartag.** (4-2-03)
- 05. Official ISDA Cervidae Program Eartag.** A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (4-2-03)
- 06. Official HASCO Brass Lamb Tag.** This brass lamb tag shall be engraved with farm name and individual animal identification number. (4-2-03)
- 07. Freeze Brands.** Legible, freeze brands which uniquely identify the individual domestic cervid. (4-6-05)
- 08. Ranch Specific Unique Bangle or Lamb Tags.** The Administrator may grant written approval for the use of bangle or lamb tags that are: (9-1-07)T
- a. Ranch specific; and** (9-1-07)T

- b.** Tamper resistant; and (9-1-07)T
- c.** Uniquely numbered; and (9-1-07)T
- d.** Correlated with another type of official identification on the annual inventory report. (9-1-07)T

089. Other Identification. Other forms of unique individual identification approved by the Administrator. (4-6-05)

023. -- 029. (RESERVED).

030. OFFICIAL VISIBLE IDENTIFICATION.

01. Ear Tags. All domestic cervidae must be identified with a bangle or lamb tag that is visible from one hundred fifty (150) feet. (9-1-07)T

02. Size. The large portion of the bangle or lamb tag must be at least two (2) square inches. (9-1-07)T

03. Color. No visible identification shall have a primary color of brown, black, pink, tan, or silver. (9-1-07)T

04. Camouflage Patterns. No visible identification shall utilize camouflage patterns. (9-1-07)T

0231. REIDENTIFICATION OF DOMESTIC CERVIDAE.

No domestic cervidae that were marked with official identification shall be re-tattooed for the purpose of reestablishing their identification nor shall any domestic cervidae be re-ear-tagged with an official identification eartag at any time subsequent to the original identification, except that re-tattooing or re-ear-tagging for the purpose of reestablishing the official identification shall be allowed under the following conditions: (4-2-03)

01. Supervision. Reidentification shall be accomplished under the supervision of an accredited veterinarian, or state or federal animal health officials. (4-2-03)

02. Permanent Identification. Animals that are presented for reidentification shall have some permanent identification which will identify the animals as those originally officially identified such as an individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the annual inventory report or other official record. (4-2-03)

03. Inventory Evaluation. In absence of permanent identification, the Administrator may conduct an investigation or inventory evaluation to determine identity of the animal that is being presented for reidentification. (4-2-03)

04. Reproduction of Original Tattoo. Re-tattooing shall reproduce the original tattoo, which was placed in the animal's ear at the time of official identification. (4-2-03)

05. Records. The accredited veterinarian, or state or federal animal health official, who supervises the reidentification shall correlate the new identification with previous identification and record the eartag or other identification numbers, the tattoo symbols and the owner's name and address and submit the reidentification record to the Division within ten (10) days of the date of reidentification. (4-2-03)

032. -- 039. (RESERVED).

0240. INSPECTIONS.

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect cervidae records, premises, facilities, and domestic cervidae to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to domestic cervidae. State and federal animal health officials shall comply with the operation's biosecurity protocol so long as the protocol does not

inhibit reasonable access to:

~~(4-2-03)~~(9-1-07)T

01. Entry. Enter and inspect, at reasonable times, the premises of domestic cervidae ranches and inspect domestic cervidae. (9-1-07)T

02. Access to Records. Review or copy, at reasonable times, any records that must be kept in accordance with these rules. (9-1-07)T

041. -- 049. (RESERVED).

0250. GENETICS.

Domestic cervidae that have red deer genetic influence shall not be imported into Idaho. Additionally, any domestic cervidae located in Idaho that are identified as having red deer genetic influence shall be destroyed, removed from the state, or neutered. (4-2-03)

051. -- 059. (RESERVED).

0260. WILD CERVIDAE.

Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch. (4-2-03)

01. Duty of Ranch Owner. It shall be the duty of owners of all domestic cervidae ranches to take precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter fence of any domestic cervidae ranch. (4-2-03)

02. Notification of Administrator. All owners or operators of domestic cervidae ranches shall notify the Administrator within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (4-2-03)

03. Failure to Notify the Administrator. The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (4-2-03)

04. Idaho Department of Fish and Game. Upon receiving notification that wild cervidae are on a domestic cervidae ranch the Administrator shall notify the Idaho Department of Fish and Game. (4-2-03)

05. Wild Ungulate Cooperative Herd Plan. The Idaho Department of Fish and Game shall cooperate with ISDA and the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the disposition of the wild cervidae or wild ungulates. (4-6-05)

061. -- 069. (RESERVED).

0270. SUPERVISION OF DOMESTIC CERVIDAE PROGRAM.

A department veterinary medical officer shall provide routine supervision of the domestic cervidae program.(4-2-03)

071. -- 079. (RESERVED).

0280. DISPOSAL OF DOMESTIC CERVIDAE.

All domestic cervidae carcasses and parts of carcasses not utilized for human consumption, except parts of carcasses utilized for taxidermy purposes, shall be disposed of in compliance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement And Disposal." (4-2-03)

081. -- 089. (RESERVED).

0290. FEES.

~~01. Domestic Cervidae Ranches.~~ A fee, not to exceed five dollars (\$5) per head on elk or three dollars

(\$3) per head on fallow deer and reindeer, is to be assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. This fee is due January first of each year. ~~(4-2-03)~~(9-1-07)T

~~02. Domestic Cervidae Approved Feedlots. A fee of five dollars (\$5) per head on elk and three dollars (\$3) per head on fallow deer and reindeer, shall be paid on all cervidae entering domestic cervidae approved feedlots to cover the cost of administering the program covered in these rules. This fee is due January first of each year.~~
~~(4-2-03)~~

~~03091. -- 099. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

102. PERIMETER FENCE REQUIREMENTS.

A perimeter fence, completely enclosing the domestic cervidae ranch shall be constructed of high-tensile, non-slip woven wire or other fencing material approved by the Administrator. (4-2-03)

01. Elk and Fallow Deer. For elk and fallow deer, the fence shall be a minimum of eight (8) feet in height for its entire length at all times. (4-2-03)

02. Reindeer. For reindeer, the fence shall be at least six (6) feet in height for its entire length at all times. (4-2-03)

03. Wire. The top two (2) feet of each fence may be smooth, barbed or woven wire (at least twelve and one-half (12-1/2) gauge) with horizontal strands spaced not more than six (6) inches apart. (4-2-03)

a. Wire shall be placed on the animal side of the fence to prevent pushing the wire away from the posts. (4-2-03)

b. Wire shall be attached to all posts at the top, bottom, and not more than ~~twelve~~ eighteen (128) inches apart between the top and bottom of the wire. ~~(4-2-03)~~(9-1-07)T

04. Posts. ~~Wooden~~ Posts used in the perimeter fence shall be at least butt-end treated with a commercially available preservative and have a minimum of four (4) inch top for line posts and a minimum of five (5) inch top for corner posts. Metal pipe posts must be a minimum of two and one-eighth (2-1/8) inches outside diameter with a three-sixteenths (3/16) inch wall thickness for line posts and two and seven eighths (2-7/8) inches outside diameter with a seven-thirty-seconds (7/32) inch wall thickness for corner posts. Posts shall be spaced no more than twenty-four (24) feet apart, with stays, supports or braces as needed, and be placed in the ground a minimum of three (3) feet. ~~(4-2-03)~~(9-1-07)T

05. Gates. Each domestic cervidae ranch shall have gates that prohibit the escape of domestic cervidae or the ingress of wild cervidae. (4-2-03)

06. Fence Maintenance. Fences shall be maintained, at all times that domestic cervidae are present, to prevent domestic cervidae from escaping or native wild cervidae from entering the enclosure. (4-2-03)

07. Exceptions. The Administrator may grant exceptions to the specifications in Section 102 on a case specific basis. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

202. INVENTORY VERIFICATION.

State or federal animal health officials shall verify all domestic cervidae ranch inventories of animals held and

individual animal identification annually.

(4-2-03)

01. Visible Identification. Individual animal identification verification may be accomplished by visually noting the unique official visible identification number or visually noting an unofficial visible identification number if the number is correlated with two (2) forms of official identification on the inventory submitted by the cervidae producer. The Administrator may, on a case by case basis, grant written permission for ranch specific unique bangle tags to be used for official identification. ~~(4-6-05)(9-1-07)T~~

02. Duty to Gather and Restrain. It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae, which state or federal animal health officials determine are not readily identifiable, for inventory verification purposes. The Administrator shall determine the suitability of the restraint system. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.

The death of all domestic cervidae over one (1) year of age shall and all domestic cervidae that have been officially identified and inventoried must be reported by the owner or operator to the division: ~~(4-6-05)(9-1-07)T~~

01. Reports. The initial report of a cervidae death may be made by telephone, facsimile, or electronic mail, and then followed by the submission of ~~CWD sample submission form/~~ the death certificate. ~~(4-6-05)(9-1-07)T~~

02. Submission of Death Certificates. CWD sample submission forms/death certificates shall be submitted to the division by regular mail, facsimile, or by other means as approved by the Administrator. (4-6-05)

03. Reporting Deaths at Domestic Cervidae Ranches. The owner or operator of a domestic cervidae ranch shall notify the division within five (5) business days of when the owner or operator knew or reasonably should have known of the death. ~~(4-2-03)(9-1-07)T~~

04. Reporting Deaths at Approved and Custom Exempt Slaughter Establishments. The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered. ~~(4-2-03)(9-1-07)T~~

(BREAK IN CONTINUITY OF SECTIONS)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain ~~or other~~ tissues, from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments, shall be submitted, by the owner of the slaughtered cervidae, to official laboratories to be tested or examined for CWD as provided for in these rules. ~~(4-2-03)(9-1-07)T~~

02. Domestic Cervidae Ranch Surveillance. Brain ~~or other~~ tissues, from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die, or are slaughtered, or harvested by hunting on domestic cervidae ranches shall be submitted, by the owner or operator of the domestic cervidae ranch, to official laboratories to be tested or examined for CWD, as provided for in these rules, except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd. ~~(4-2-03)(9-1-07)T~~

(BREAK IN CONTINUITY OF SECTIONS)

507. -- 5989. (RESERVED).

~~600. DOMESTIC CERVIDAE APPROVED FEEDLOTS.~~

~~Domestic cervidae may be fed for slaughter in an Idaho Domestic Cervidae Approved Feedlot for a time period of up to six (6) months, except for domestic cervidae calves born in the feedlot. (4-2-03)~~

~~01. Grazing. No Domestic Cervidae Approved Feedlot shall permit pasturing or grazing. (4-2-03)~~

~~02. Maintain All Original Identification. All original animal identification devices shall be maintained and records of new identification devices shall show original identification and disposition. These records shall be maintained for three (3) years following disposition of the domestic cervidae for animal health tracing purposes. (4-2-03)~~

~~03. All Cervidae Shall Be Separated by Sex. All cervidae on the facility shall be penned separately by sex so that no breeding can occur. (4-2-03)~~

~~04. Pregnant Female Cervidae Allowed to Calve. Female cervidae, which are pregnant at the time of entry into the feedlot, may be allowed to calve in the feedlot. All calves may remain in the feedlot up to sixteen (16) months of age prior to moving to an approved slaughter establishment. (4-2-03)~~

~~05. All Cervidae Leaving the Facility. All cervidae, including calves born to female cervidae in the feedlot, leaving the facility shall move only to slaughter at an approved slaughter establishment. (4-6-05)~~

~~06. Escapes. All domestic cervidae that escape from a Domestic Cervidae Approved Feedlot shall immediately be destroyed. The owner or operator of the Domestic Cervidae Approved Feedlot shall notify the Administrator by phone, facsimile, or other means as approved by the Administrator within twenty-four (24) hours of the first knowledge of the escape. (4-6-05)~~

~~07. Domestic Cervidae Deaths. All deaths of domestic cervidae shall be reported, by the owner or operator of the domestic cervidae feedlot, to the Administrator within twenty-four (24) hours of the death. (4-2-03)~~

~~08. CWD Testing. The owner or operator of the domestic cervidae feedlot shall collect and submit tissue samples for CWD testing in accordance with Section 501 for all cervidae that enter the feedlot. (4-2-03)~~

~~09. Notification of Disease. Every owner or operator of a Domestic Cervidae Approved Feedlot that observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, by telephone or facsimile to the Administrator. (4-2-03)~~

~~601. APPLICATION FOR DOMESTIC CERVIDAE APPROVED FEEDLOT.~~

~~Application for Domestic Cervidae Approved Feedlot status shall be made on application forms available from the Administrator. (4-2-03)~~

~~602. ADMINISTRATOR APPROVAL.~~

~~The Administrator may approve Domestic Cervidae Approved Feedlot Applications after the domestic cervidae feedlot has been inspected by state or federal animal health officials and meets all requirements for a Domestic Cervidae Approved Feedlot as described in this Section. (4-2-03)~~

~~01. Cervidae Secured. The feedlot management has demonstrated that domestic cervidae can be secured in the feedlot and the feedlot has met the facility requirements in Section 603; and (4-2-03)~~

~~02. Adequate Records. Domestic Cervidae Approved Feedlot records are adequate to show the origin and disposition of the domestic cervidae in the feedlot; and (4-2-03)~~

~~03. Adequate Resources. The Administrator determines that the Division of Animal Industries has adequate personnel and fiscal resources to assure that the feedlot abides by the provisions of this Chapter; and (4-2-03)~~

~~04. Past History. The Administrator may take past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (4-2-03)~~

~~603. DOMESTIC CERVIDAE APPROVED FEEDLOT REQUIREMENTS.~~

~~All Domestic Cervidae Approved Feedlots shall comply with the facility requirements for domestic cervidae ranches in this Chapter, and the following: (4-2-03)~~

~~01. Perimeter Fence. A double perimeter fence, constructed in accordance with Section 102, with a minimum of thirty (30) feet of separation between the perimeter fences. (4-2-03)~~

~~02. Interior Fence. All interior fences shall have a visual barrier such that domestic cervidae cannot see the exterior fence. (4-2-03)~~

~~03. Access to Live Water. There can be no access to live surface water by the animals in the facility. (4-2-03)~~

~~04. Prohibited in Areas with Resident or Migratory Wild Cervidae Herds. Domestic Cervidae Approved Feedlots are not allowed in areas with preexisting wild cervidae herds during any part of the year as determined by the Administrator. (4-2-03)~~

~~05. Geographically Separate from Any Other Domestic Cervidae Ranch or Other Livestock Facility. Domestic Cervidae Approved Feedlots are to be geographically separated from any other domestic cervidae ranch or other livestock facility as determined by the Administrator. (4-2-03)~~

~~06. Waste Containment. All manure, runoff and wastewater shall be contained on the facility in a manner approved by the Administrator. (4-2-03)~~

~~604. DOMESTIC CERVIDAE APPROVED FEEDLOT NUMBER.~~

~~Feedlots approved by the Administrator shall receive a Domestic Cervidae Approved Feedlot Number. (4-2-03)~~

~~605. EXPIRATION OF APPROVED STATUS.~~

~~Approved domestic cervidae feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. (4-2-03)~~

~~606. CONTENT OF RECORDS FOR DOMESTIC CERVIDAE APPROVED FEEDLOTS.~~

~~All domestic cervidae approved feedlots shall keep accurate and complete records of all cervidae in the feedlot. These records shall readily show: (4-2-03)~~

~~01. Animals Received. The number, species, age, sex, origin, date of entry, individual identification, and final disposition of all cervidae received at the feedlot. (4-2-03)~~

~~02. Animals Removed from Feedlot. The date of removal or sale, and destination of any animals removed. (4-2-03)~~

~~03. Death Loss. That the deaths of all cervidae have been accurately recorded. (4-2-03)~~

~~04. Requirements. That all applicable permit, test, examination, identification, and vaccination requirements have been met. (4-2-03)~~

~~607. RECORDS RETENTION.~~

~~Feedlot records shall be retained by the feedlot for a period of not less than three (3) years following removal of the cervidae from the feedlot. (4-2-03)~~

608. ENTRY REQUIREMENTS.

~~Idaho Domestic Cervidae Approved Feedlots are allowed to feed all classes of cervidae, which are not known to be exposed to brucellosis, tuberculosis, or CWD, except that no cervidae from a CWD endemic area, as determined by the Administrator, shall be imported into a Domestic Cervidae Approved Feedlot. (4-2-03)~~

609. DOMESTIC CERVIDAE APPROVED FEEDLOT CLOSURE.

~~Domestic Cervidae Approved Feedlot owners may close the facility by shipping all domestic cervidae to slaughter at an approved slaughter establishment. (4-2-03)~~

~~**01. Records.** Feedlot records shall be retained by the feedlot owner for a period of not less than three (3) years following removal of the cervidae from the feedlot, or transferred to the Division. (4-2-03)~~

~~**02. Repopulation of Facility.** The Administrator shall determine the method and timeframes for repopulation of the facility with domestic cervidae or other livestock, and any required cleaning and decontamination. (4-2-03)~~

~~**610.---619. (RESERVED);**~~

620. INSPECTION.

~~The feedlot premises, the domestic cervidae therein, and the feedlot records shall be presented for inspection, during normal business hours, to the Administrator. (4-2-03)~~

621. REVOCATION OF APPROVED FEEDLOT STATUS.

~~The Administrator may revoke approved feedlot status by notifying the owner in writing. (4-2-03)~~

~~**01. Failure to Comply.** In addition to any other department administrative or civil action, failure on the part of the feedlot operator to comply with the requirements of this chapter shall result in revocation of the Idaho Domestic Cervidae Approved Feedlot status. (4-2-03)~~

~~**02. Operator Request.** Operators may have the approved feedlot status revoked by emptying the feedlot and requesting in writing that the status be revoked. (4-2-03)~~

~~**03. Regulation Changes.** Idaho Domestic Cervidae Approved Feedlot status may be revoked at such time as revocation is required by changes in state or federal rules or regulations. (4-2-03)~~

~~**04. Disposition of Domestic Cervidae.** Should the Idaho Domestic Cervidae Approved Feedlot status be revoked, domestic cervidae still in the feedlot shall be removed from the feedlot as provided in Section 600 of this chapter. The Administrator shall have the authority to impose time limits for removal of domestic cervidae. (4-2-03)~~

~~**622.---989. (RESERVED);**~~

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-0701
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change is to be consistent with the Official Publication of the Association of American Plant Food Control Officials, to correct an incorrect citation and to allow the name and address of the manufacturer or guarantor to appear on the fertilizer label.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simplicity of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rick Killebrew, Section Manager or Michael E. Cooper, Bureau Chief at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 18th day of July, 2007.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-0701

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the "2007~~8~~ Official Publication" of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or ~~(3-30-07)~~()

02. The Merck Index. The "200~~6~~ Merck Index," 1~~3~~⁴th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. ~~(4-6-05)~~()

(BREAK IN CONTINUITY OF SECTIONS)

011. RULES REGARDING THE REGISTRATION OF FERTILIZERS CONTAINING PLANT NUTRIENTS IN ADDITION TO NITROGEN, PHOSPHATE, AND POTASH.

01. Other Plant Nutrients. A fertilizer may contain plant nutrients in addition to nitrogen, phosphate and potash. When these other nutrients are mentioned on the label in any form or manner, the fertilizer shall be registered. In addition, each nutrient amount shall be guaranteed. The guarantee shall be reported, on the label, on an elemental basis. Sources of the nutrients subjected to the guaranteed analysis, and proof of availability shall be provided to the department upon request. Any additional nutrients, contained in a fertilizer submitted for registration, must be present in the following minimum concentrations:

Element	Percent
Calcium (Ca)	1.0000
Magnesium (Mg)	0.5000
Sulfur (S)	1.0000
Boron (B)	0.0200
Chlorine (Cl)	0.1000
Cobalt (Co)	0.0005
Copper (Cu)	0.0500
Iron (Fe)	0.1000
Manganese (Mn)	0.0500
Molybdenum (Mo)	0.0005
Nickel (Ni)	0.0010
Sodium (Na)	0.1000
Zinc (Zn)	0.0500

~~(3-30-01)~~()

02. Labeling. The label shall constitute a guarantee regarding the nutrient content of the fertilizer. No nutrients, other than those listed in Subsection 011.01, will be accepted by the department as guaranteed. Proposed labels and directions for the use of the fertilizer shall be furnished with the application for registration upon request.

Any of the above listed elements which are guaranteed shall appear in the order listed immediately following guarantees for the primary nutrients of nitrogen, phosphate and potash. (3-30-01)

03. Exemptions. Guarantees for water soluble nutrients labeled for ready-to-use foliar fertilizers, ready-to-use specialty liquid fertilizers, hydroponic or continuous liquid feed programs, and potting soils, are exempted from the minimum element percentages listed in Subsection 011.01. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

030. FERTILIZER LABELS.

The following information, in the format presented, is the minimum required for all fertilizer labels. For packaged products, this information shall either appear on the package, or be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery. (3-30-01)

01. Net weight. (3-30-01)

02. Brand. (3-30-01)

03. Grade. Grade (provided that the grade shall not be required when no primary nutrients are claimed). (3-30-01)

04. Guaranteed Analysis. A fertilizer label must contain the results of the guaranteed analysis. Zero (0) guarantees should not be made and shall not appear in any statement except in nutrient guarantee itemizations. If chemical forms of nitrogen are claimed or required, said form shall be set forth on the label. Nutrients other than nitrogen, phosphate and potash shall be set forth, on an elemental basis, as required by Subsection 0101.01. The results of the guaranteed analysis required by this rule shall be in the following form:

Total Nitrogen	(N). _____%
_____%	Ammoniacal Nitrogen
_____%	Nitrate Nitrogen
_____%	Water Insoluble Nitrogen
_____%	Urea Nitrogen
_____%	(Other recognized and determinable forms of N)
Available Phosphate (P ₂ O ₅)	_____%
Soluble Potash (K ₂ O)	_____%
(Other nutrients, elemental basis)	_____%

(3-30-01)(____)

05. Sources. Sources of nutrients shall be listed below the completed guaranteed analysis statement. (3-30-01)

06. Name and Address. Name and address of manufacturer, guarantor or registrant. (3-30-01)(____)

07. Specialty Fertilizers. For specialty fertilizers distributed to the end user, the label shall set forth

adequate directions for use. Such directions may include, but are not limited to: (3-30-01)

a. The recommended application rate or rates in units of weight or volume per unit of area coverage (where application rates are given in volume, the manufacturer shall provide the bulk density for the product on the label); (3-30-01)

b. Proper seasonal times and minimum intervals to apply the product when plants can rapidly utilize nutrients and loss to the environment can be minimized; and (3-30-01)

c. The statement “Apply Only As Directed” or a statement of similar designation. (3-30-01)

08. Packaging. Refer to Idaho Department of Agriculture rules, IDAPA 02.02.14, “Rules for Weights and Measures,” for the specific requirements relating to product identity, declaration of quantity and prescribed units. (3-30-01)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.36 - RULES GOVERNING KARNAL BUNT DISEASE OF WHEAT, RYE, AND TRITICALE

DOCKET NO. 02-0636-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking: To repeal the rule in its entirety.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rules were adopted prior to the Federal Plant Protection Act of 2000 that grants USDA regulations primacy over state rules or quarantines for a particular pest. Since USDA has regulations governing Karnal Bunt, the Idaho rules are preempted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, "Idaho Rules of Administrative Procedure of the Attorney General," negotiated rulemaking was not conducted because this is the repeal of a rule superceded by Federal Regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 20th day of July, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02.06.36 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

**02.06.39 - RULES GOVERNING MINIMUM STANDARDS FOR PLANTING
UNCERTIFIED SEED POTATOES IN IDAHO**

DOCKET NO. 02-0639-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-505, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule will set forth seed potato record keeping requirements for compliance with the USDA National Seed Potato Harmonization Plan, change the title, and make technical corrections.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact to the state with the adoption of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief or Tom Dayley, Administrator at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 9th day of August, 2007.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0639-0701

02.06.39 - RULES GOVERNING MINIMUM STANDARDS FOR PLANTING
~~UNCERTIFIED~~ SEED POTATOES IN IDAHO

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 02.06.39, "Rules Governing Minimum Standards for Planting ~~Uncertified~~ Seed Potatoes in Idaho." (3-23-98)(____)

02. **Scope.** These rules will establish the procedures of identifying, handling and testing uncertified seed potatoes to be planted in Idaho. These rules also provide ~~procedures~~ record keeping requirements for ~~reporting~~ the planting of ~~uncertified~~ seed potatoes ~~to the department and enforcement in Idaho.~~ (3-23-98)(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~005.~~ **FINDINGS.**

~~The adoption of IDAPA 02.06.39 will confer benefits to the potato industry. The planting of uncertified seed potatoes that meet the standard for the last generation of certified seed potatoes according to the Idaho Crop Improvement Association (ICIA) rules of certification authorized pursuant to Title 22, Chapter 15, Idaho Code, will reduce the incidence of diseases and improve the quality of Idaho potatoes.~~ (3-23-98)

~~006.~~ **PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records available for inspection and copying at the department. (3-23-98)

~~007.~~ -- 049. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

060. ENFORCEMENT.

01. **Reporting – Uncertified Seed Potatoes.** All growers planning to plant uncertified seed potatoes shall complete an uncertified seed potatoes report form approved by the department. The completed report shall be submitted to the department prior to planting. (3-23-98)(____)

02. **Survey.** ~~The department shall randomly survey not less than fifteen percent (15%) of the Idaho potato growers annually for compliance with these rules and the provisions of Title 22, Chapter 5, Seed Potatoes, Idaho Code.~~ **Records - Certified Seed Potatoes.** All potato growers are required to keep seed potato certification records for a minimum of four years after planting. The records may be official tags or other official documentation issued by the certifying agency and representing each lot planted. These records must include the potato variety name, certification number and certifying agency. These records shall be made available to a Department representative upon request. (3-23-98)(____)

IDAPA 06 - BOARD OF CORRECTION
06.01.01 - RULES OF THE BOARD OF CORRECTION
DOCKET NO. 06-0101-0701
NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: The effective date of this rule is October 5, 2007.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. Section 20-212, Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. In accordance with Section 20-212(1) of the Idaho Code, this rule shall become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearing(s) concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking is necessary to reflect current Idaho Department of Correction (IDOC) practices, standards, policies, procedures, and directives. Board of Correction rules have not been amended since 2002. Changes consist of amendments to or about 19 different major sections and/or subsections. Most of the proposed changes are minor and consists of amendments to Sections 106, 108, 110, 116, 123, 135, 601, and 607. Changes in these sections are necessary to clarify processes or requirements or to reference a section to other sections that are closely associated.

The remaining changes are major and consist of amendments to sections 005, 010, 134, 137, 302, 402, 403, 405, 510, 511, 604, 606, and 608. Changes in these sections are necessary to reflect current processes and procedures (e.g. housing inmates, mail handling, inmate religious practices, searches of persons and vehicles, visiting, and volunteer services), revise terminology and definitions in order to make consistent with Department policies and procedures, and remove those sections that no longer impact public rights, interests, or privileges.

FEE SUMMARY: There is no increase in fees imposed with this rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on general funds for this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lorenzo Washington, Policy Program Coordinator, at (208) 658-2115.

DATED this 8th day of August, 2007.

Lorenzo Washington
Policy Program Coordinator
Idaho Department of Correction
1299 N Orchard St. Suite 110
Boise, ID 83706
Ph: (208)658-2115
Fax: (208)327-7424

THE FOLLOWING IS THE TEXT OF DOCKET NO. 06-0101-0701

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The Board of Corrections' headquarters administrative office and the Idaho Department of Correction are located at ~~the central office location of the Idaho Department of Correction, 1299 North Orchard Avenue St., Suite 110, Boise, Idaho 83706-2266.~~ Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. ~~Mail regarding the Board of Correction rules should be directed to the Board of Correction, attention Administrator, Institutional Services Division, 1299 North Orchard Avenue, Suite 110, Boise, Idaho 83706.~~ (7-6-01)()

02. Mailing Address (Board of Correction). Mail regarding the Board of Corrections' rules shall be directed to the Board of Correction, attn: management assistant, office of the director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. ()

03. Mailing Address (Dept. of Correction). Mail regarding the Idaho Department of Correction shall be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. ()

04. Telephone Number. The telephone number of both the Board and Department is (208) 658-2000. ()

05. Facsimile Number. Faxes shall be sent directly to the person, division, bureau, or unit as requested. If the fax number is not provided by the person, division, bureau, or unit, contact the Department's main reception at (208) 658-2000 to obtain the fax number. ()

06. Internet Website. The Department's Internet website can be found at <http://www.idoc.idaho.gov/>. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

~~01. Administrator.~~ ~~The exempt employee in authority over a division of the Department.~~ (11-5-99)

021. Archival Research. Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)

032. Attorney of Record. An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)

~~043. Board.~~ The State Board of Correction. (11-5-99)

054. Case Management File. A collection, in either hand or electronic form, of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate (offender), parolee, or probationer regarding classification, treatment, programming, management, and parole, or clemency ~~decisions~~. (11-5-99)()

05. Chief. The exempt employee in authority over a division of the Department. Chief is commonly referred to as the division chief. ()

~~06. **Confidential Mail.** Is mail to or from the president, the governor, the Attorney General or any Assistant or Deputy Attorney General, the Idaho legislature or Congress (except for bulk mailings), the courts, attorneys (except for bulk mailings), the Board, the director, and Department administrators and facility heads.~~ **Commission of Pardons and Parole.** The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (11-5-99)()

~~07. **Contact Visiting.** Visiting with an inmate where there are no physical barriers between partition, such as a window or wall, separates the visitor and the inmate, and the inmate and visitor Physical touch may be allowed to touch.~~ (11-5-99)()

~~08. **Contraband.** Any thing, of any kind, which that is prohibited by Board, Department, or facility rules, policies, procedures, or directives, or standard operating procedures.~~ Contraband also includes any thing, of any kind, which that a facility head has not approved; ()

~~a. For possession by an inmate, or which a facility head has not approved ()~~

~~b. To bring in to into a facility or on to onto a Department property. (11-5-99)()~~

~~09. **Contractor.** A person who has entered into a contract with the Board or Department, or a contract with the State of Idaho administered by the Board or Department to provide any service. (11-5-99)~~

~~10. **County Jail.** A detention or holding facility operated by the sheriff of a county. (11-5-99)~~

~~11. **Department.** The State Department of Correction. (11-5-99)~~

~~12. **Department Property.** Real property owned, or leased, and operated, or managed by the Board or Department. (11-5-99)()~~

~~13. **Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)~~

~~14. **Director.** The director of the Department of Correction. (11-5-99)~~

~~15. **Division.** An operating unit of the Department. The Department divisions are: the divisions of (11-5-99)~~

~~a. Operations, comprised of Community Corrections, Correctional Industries, Prisons, and Programs; and Community Corrections, Education and Treatment, and Management Services. (9-6-02)()~~

~~b. Support, comprised of Evaluation and Compliance, Human Resource Services, and Management Services. (9-6-02)~~

~~16. **Execution.** The carrying out of a sentence of death. (11-5-99)~~

~~17. **Facility.** A building or residence, including the property and land where the building or residence is located, owned, or leased, and operated, or managed by the Board or Department. (11-5-99)()~~

~~18. **Facility Head.** The person with primarily responsibility to responsible for overseeing, managing or operating a Department facility. (11-5-99)()~~

~~19. **Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)~~

~~20. **General Mail.** All mail other than confidential mail. (11-5-99)~~

~~21. **Health Authority.** The Department employee with primary responsibility to oversee who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health~~

- authority is commonly referred to as the medical services manager. (11-5-99)()
- 220. Immediate Family -- Offender.** The immediate family of an inmate is: (11-5-99)()
- a.** The mother or father of the inmate, including step parent; (11-5-99)
 - b.** The brother or sister of the whole or half (1/2) blood or by adoption, or the stepbrother or stepsister of the inmate; (11-5-99)
 - c.** The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)
 - d.** The natural child, adopted child or stepchild of the inmate; (11-5-99)
 - e.** The grandparents of blood relation to the inmate; or (11-5-99)
 - f.** The grandchildren of blood relation to the inmate. (11-5-99)
- ~~**23. Intern.** A student of a recognized college or university who may be involved in a course of study or research project conducted within a facility or service area under the authority of the Board. (11-5-99)~~
- 241. Inmate.** An individual in the physical custody of the Board. (11-5-99)
- ~~**25. Inmate Visitor.** A member of the public who is approved to visit with an inmate at a Department facility. (11-5-99)~~
- ~~**26. Legal Assistant.** A person who has been granted permission by the facility head or designee to assist an inmate in a specific legal matter and who is a law student or an employee of an attorney of record, or an employee of a local, state or federal court, or an employee of a legal aid service. (11-5-99)~~
- 272. Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (11-5-99)
- ~~**283. Minor.** An individual less than eighteen (18) years old. (11-5-99)()~~
- 294. Noncontact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers, or openings in the physical barrier designed to allow sound to pass. (11-5-99)
- ~~**30. Obscene.** Material is considered obscene if it: (11-5-99)~~
- ~~**a.** Portrays physical contact of a person with the sexual organs of another by genital-genital, oral-genital, digital-anal, digital-genital, anal-genital contact; (11-5-99)~~
 - ~~**b.** Portrays the insertion of foreign objects into the anus or vagina; (11-5-99)~~
 - ~~**c.** Portrays the discharge of bodily fluids; (11-5-99)~~
 - ~~**d.** Portrays bestiality; (11-5-99)~~
 - ~~**e.** Portrays sexual contact with a minor under age eighteen (18) or a person who appears to be under the age of eighteen (18); (11-5-99)~~
 - ~~**f.** Portrays violent activity in a sexual context; or (11-5-99)~~
 - ~~**g.** Portrays an act where one (1) of the participants appears to be non-consenting to the act. (11-5-99)~~

- ~~3125.~~ **Offender.** A person under the legal care, custody, supervision, or authority of the Board, including a person within or without the State pursuant to agreement with another state or a contractor. (11-5-99)
- ~~32.~~ **Parole Commission.** *The Idaho Commission of Pardons and Parole.* (11-5-99)
- ~~326.~~ **Parolee.** An offender who: ()
- a.** ~~Is released from a facility to a period of supervision upon grant of parole by a~~ the paroling authority prior to the completion of his sentence; (11-5-99)()
- b.** Agrees to comply with certain conditions established by the paroling authority; and ()
- c.** Remains under the control of a parole officer for the established period of supervision. ()
- ~~3427.~~ **Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
- ~~3528.~~ **Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
- ~~3629.~~ **Photo Identification.** A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph, or a current valid passport. (11-5-99)()
- ~~370.~~ **Post Order.** A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)
- ~~381.~~ **Probationer.** An offender who ~~is placed on a period of supervision on probation by a court of competent jurisdiction~~ the courts allow to continue to live and work in the community, instead of being sent to prison, while being supervised by a probation officer (PO) for an established period of time. (11-5-99)()
- ~~392.~~ **Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
- ~~4033.~~ **Public.** A person, ~~in~~ of the general public; ~~For purposes of these rules public that~~ does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department, ~~or Parole the Commission of Pardons and Parole.~~ (11-5-99)()
- ~~4134.~~ **Public Information Officer.** An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)
- ~~4235.~~ **~~Research Activities~~ Regular Volunteer.** ~~Activities which systematically investigate a phenomenon or series of phenomena~~ Any approved person, not employed by the Idaho Department of Correction (IDOC), who is at least eighteen (18) years of age and, of his own free will, provides good or services, for no monetary or material gain, to a facility and/or any of its sections. This person must: (11-5-99)()
- a.** Completed an application; ()
- b.** Receive volunteer and facility orientation training; and ()
- c.** Be approved by a facility head or designee. ()
- ~~43.~~ **~~Research on Human Subjects.~~** ~~Research requiring access to, and participation of, employees of the Department or offenders.~~ (11-5-99)
- ~~36.~~ **Student Intern Volunteer.** An approved college or university student who, as part of an academic

program, offers his time or services to help enhance the mission, activities, and programs of the Department, which also helps further his professional development. Some student interns may receive compensation from the Department. (See also Regular Volunteer.) ()

4437. Tobacco Products. Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)

4538. Vendor. A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)

4639. Visiting Staff. Employees of the Department or the *Parole* Commission of Pardons and Parole conducting business in the Department central office building on a regular or irregular basis. (11-5-99)()

470. Visitor. A member of the public, as defined herein, who is approved to visit a Department facility. (11-5-99)()

481. Volunteer. An approved person who *has* volunteered or donated time or services to the Board or a Department operation or facility. (11-5-99)()

492. Work Site. Any place where inmates may be found when assigned to a work project. (11-5-99)

(BREAK IN CONTINUITY OF SECTIONS)

106. SERVICE OF PROCESS ON DEPARTMENT EMPLOYEES.

The Board authorizes and directs that all service of summons, *and* complaints, and subpoenas against or upon the Board, the Department, or any employee of the Department for or related to a cause of action arising out of or related to the scope and course of the actions, duties, or employment of the Board, the Department, or any employee of the Department shall be made upon the deputy attorneys general assigned to the Department in the manner and form required by state and federal rules of procedure. (11-5-99)()

107. (RESERVED).

108. IDAHO PUBLIC RECORDS ACT.

01. Intent of the Board. It is the intent of the Board that the records of the Department shall be open to the public for inspection and copying at all reasonable times, unless the records or information contained therein is specifically exempted from disclosure by state or federal statute or court rule. It is the further intent of the Board to implement the exemptions for Department records as set forth in the Idaho Public Records Act. The Board has determined that disputes over denials or partial denials of public records requests should be resolved informally whenever possible. (1-4-02)

02. Public Records Requests. The Department shall develop guidelines and procedures for processing public records requests. The guidelines and procedures shall include the following: (1-4-02)

a. A written request for records of the Department shall be required; and (1-4-02)

b. If any Department record contains information that is not exempt from disclosure as well as information which is exempt from disclosure, the Department shall separate the exempt and non-exempt information and make the non-exempt information available for public inspection and copying. (1-4-02)

03. Custodian of Records. Certain Department employees are designated as official custodians of Department records. The employees designated as official custodians of the Department records may delegate duties and responsibilities of the custodians in order to more efficiently process public records requests. For purposes of this section, official custodians for records of the Department shall be: (1-4-02)

- a. The director; (1-4-02)
- b. The public information officer; (11-5-99)
- c. The central records manager; (11-5-99)
- d. The ~~administrators~~ chiefs of the divisions; ~~and~~ (~~1-4-02~~)()
- e. The facility heads; and (~~1-4-02~~)()
- f. The policy program coordinator. ()

04. Records Exempt from Disclosure. In order to protect information consistent with the public's interest in confidentiality, public safety, security, and the habilitation of offenders, the Board has identified records of the Department to be exempt from disclosure in whole or in part. These records include, but are not limited to: (1-4-02)

- a. Records to be exempt in their entirety: (1-4-02)
 - i. Records of the Department that define specific building design details, such as facility blueprints, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - ii. Records of the Department that define specific operations used to respond to and control emergencies, such as emergency plans, that if disclosed would interfere with the secure and orderly conduct of Department operations; (1-4-02)
 - iii. Records of the Department that define site-specific security operations, such as facility security procedures and site-specific post orders, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - iv. Records containing information specific to the habilitation of any offender, including information tracking the behavior, progress or digression of a particular offender under the legal care, custody, supervision or authority of the Board, including a person within or without the state pursuant to an agreement with another state or a contractor. Notwithstanding this exemption, records of this nature specific to inmates sentenced to death shall be available to counsel of record for inmates sentenced to death, subject to redaction; (1-4-02)
 - v. Records of an offender when requested by another offender. For purposes of Subsection 108.04 the term offender shall not be construed to include a prisoner, probationer or parolee who has completed his sentence of incarceration or term of probation or parole; (1-4-02)
 - vi. Offender academic records. Notwithstanding this exemption, consistent with Family Educational Rights and Privacy Act, FERPA, 34 C.F.R. part 99, an offender's academic records shall be disclosed to school officials, including teachers, having legitimate educational interests. Further, an offender's academic records shall be disclosed to the offender's attorney of record in his criminal case, provided that the attorney first submit a release, on his letterhead, signed by the offender. A release under Subsection 108.04.a.vi. must be current, within six (6) months. (1-4-02)
 - vii. Pre-sentence investigation reports, addenda, and the information contained in or attached to the reports, shall not be disclosed to any person except as provided by Idaho Rules of Criminal Procedure; (1-4-02)
 - viii. NCIC and ILETS records, FBI/CIB identification sheets, police reports, and drivers services sheets; (1-4-02)
 - ix. Medical, counseling and treatment records. Notwithstanding this exemption, an offender's medical, counseling and treatment records shall be disclosed to the offender's attorney of record in his criminal case, or the offender's private professional health care provider, provided that the attorney or the health care provider submit a

release for these records, on his letterhead, signed by the offender. A release under Subsection 108.04.a.ix. must be current, within six (6) months; (1-4-02)

b. Records exempt in part, subject to redaction: (1-4-02)

i. Records that contain any identifying information or any information that would lead to the identification of any victims or witnesses; (1-4-02)

ii. Records of the Department containing the names and addresses of confidential informants, or containing information identifying confidential informants; (1-4-02)

iii. Department intelligence reports of offender criminal activity, that if disclosed would jeopardize public safety, the safety of confidential informants, offenders and staff, and the security of the facility; (1-4-02)

iv. Records that identify or would lead to the identification of a date, time, or a place of future transportation or movement of a prisoner; (1-4-02)

v. Department investigatory records, to the extent that disclosure of such records would interfere with enforcement proceedings, deprive a person of the right to a fair trial or impartial adjudication, disclose the identity of a confidential source or confidential information furnished only by the confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of any person. This exemption shall not preclude release of the following information: (1-4-02)

(1) The time, date, location, and nature and description of a reported crime, accident or incident; (1-4-02)

(2) The name, sex, age, and address of a person arrested, except as otherwise provided by law; (1-4-02)

(3) The time, date, and location of the incident and of the arrest; (1-4-02)

(4) The crime charged; and (1-4-02)

(5) Documents given or required by law to be given to the person arrested. (1-4-02)

vi. Employee personnel records. (1-4-02)

05. Records of Civil Commitments. Civil commitment records differ in confidentiality from other offender records in that the civilly committed individual may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual may be referred to Department legal counsel to determine applicability of federal and state statutes or court rules pertaining to individual privacy and the public's right to know. (1-4-02)

(BREAK IN CONTINUITY OF SECTIONS)

110. MEDIA AND PUBLIC RELATIONS.

01. Intent of the Board. It is the intent of the Board that the Department keep the public well informed of its activities and maintain a consistently high community rapport through public presentations and special programs. (11-5-99)

02. Interviews. Requests for an interview with an inmate will be referred to the public information officer. Media representatives requesting an interview with an inmate will be informed of Department ~~Policy and Procedure~~ 110 - Media & and Public Relations, and any related directive or standard operating procedure. No face-to-

face or on-camera interviews with inmates will be permitted in Department facilities.

~~(11-5-99)~~(____)

a. The director may grant exceptions to the no face-to-face or on-camera interview rule on a case-by-case basis. No exceptions may be granted to inmates sentenced to death. Access to inmates under sentence of death is governed by Section 19-2705, Idaho Code.

~~(11-5-99)~~(____)

b. The director, ~~administrator~~ chief of the division, or head of the facility where the inmate is housed may deny the interview request.

~~(11-5-99)~~(____)

c. The inmate will be informed of the request for interview and the nature of the interviewer's interest. The inmate may accept, decline or modify the request for interview. Requests for an interview an inmate will be accommodated by a collect telephone call from the inmate to the media representative. An inmate accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview.

(11-5-99)

d. Media coverage of program activities may include brief comment by inmate participants, which are not considered inmate interviews subject to Subsection 110.01.

(11-5-99)

111. -- 115. (RESERVED).

116. CUSTODY OF EVIDENCE.

01. Evidence Retained. Items of evidence retained by the Department for use in any proceeding concerning an offender shall be maintained in a safe and secure manner until completion of the proceedings, including appeal. A member of the public claiming an interest in an item of evidence may file a written request with the Department for its return.

(11-5-99)

02. Drugs Disposed Of. Items of evidence in the form of narcotics or other usable drugs shall be given to a law enforcement agency for disposal.

(11-5-99)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to ~~law~~ the Department's standard operating procedures.

~~(11-5-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

123. PUBLIC VISITS AND TOURS OF FACILITIES.

The Department may allow tours of facilities and property according to procedures approved by the director (also see Section 511). Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property.

~~(11-5-99)~~(____)

01. Persons Subject to Facility Rules and Regulations. All persons touring a facility or Department property are subject to the rules, policies, ~~procedures~~, directives, standard operating procedures, and field memoranda regarding visitation facility access, which Department are to be explained by the guides shall explain prior before to the beginning of the tour.

~~(11-5-99)~~(____)

a. All persons touring a facility or Department property may be subject to search (also see Section 510). Discovery of any contraband, as defined in Subsection 010.08, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense.

~~(7-6-01)~~(____)

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee.

(11-5-99)

02. Attendance at Events. Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility as long as ~~Attendance shall does~~ not interfere with penological interests (Also see Sections 601 and 607). (11-5-99)()

124. -- 133. (RESERVED).

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of appropriate and ethical research relevant to the Board's penological interests. (11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted on Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators. (11-5-99)

03. ~~Written Proposals~~ Required Documentation. A ~~Written proposals~~, a copy of the Internal Review or Human Subject Review Board approval, and a copy of the consent form will be required for all requests to conduct research with offenders. ~~The proposal~~ Required documentation will be initially submitted to the facility head, or designee, of the site where research is to take place. ~~Written proposals~~ Required documentation must be submitted ninety (90) days prior to the proposed research start date. (11-5-99)()

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. The ~~Written proposals~~, copy of the Internal Review or Human Subject Review Board approval, and copy of the consent form will be reviewed by the facility head, or designee, of the site where the research is to take place. ~~Proposals~~ These documents will be reviewed for compatibility with Department goals, programs and needs for research. ~~Proposals~~ In addition, these documents may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. (11-5-99)()

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Department employees who wish to conduct research not requested by the Department must submit the required documentation noted in Subsection 134.03. ()

de. Acceptable research proposals will be forwarded to the ~~division administrator~~ chief of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: (11-5-99)()

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

05. Use of Offenders in Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department with a copy of the completed research results. (11-5-99)

07. Termination of Project. The director, any division ~~administrator~~ chief, facility head, or designee may terminate approved research at any time for noncompliance with any rule, ~~P~~policy or ~~P~~procedure, directive, or condition previously agree upon, or for cause generated by an emergency situation or at the discretion of the director. (11-5-99)()

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution personnel will carry out the execution warrant. The facility head of the Idaho Maximum Security Institution shall be the official executioner. (11-5-99)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. If the director determines that a competent lethal injection team cannot be assembled, execution shall take place by firing squad. (11-5-99)

03. Media Coordination. Department personnel will coordinate media activity and provide logistics and communications support. A media center shall be established. The pre-execution briefing will be delivered in the media center. Media witnesses will be chosen pursuant to Department procedure. The selection of media witnesses will occur in the media center. The post-execution briefing will occur in the media center. (11-5-99)

04. Public Information Officer to Handle Media Requests. The director will designate a public information officer to deal with execution-related media requests and releases of information. (11-5-99)

05. Parking and Demonstration Areas Provided. Areas for public and media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (11-5-99)

06. Witnesses to the Execution. An area will be provided for the gathering of official witnesses and media witnesses immediately prior to the scheduled execution. A total of twenty-one (21) occupants is the limit in the execution viewing area at one (1) time. Persons allowed in the execution viewing area during the execution procedures are: (11-5-99)

- a. The injection team as identified by the facility head of the Idaho Maximum Security Institution; (11-5-99)
- b. The director, the ~~administrator~~ chief of the ~~d~~Division of ~~p~~Prisons, and the facility head of the Idaho Maximum Security Institution; (11-5-99)()
- c. The coroner; (11-5-99)
- d. The sheriff from the county of conviction; (11-5-99)
- e. The prosecuting attorney from the county of conviction; (11-5-99)
- f. A spiritual advisor of the inmate's choosing; (11-5-99)

- g.** The sentencing judge; (11-5-99)
- h.** A representative from the Governor's office; (11-5-99)
- i.** The Attorney General or his representative; (11-5-99)
- j.** A representative from ~~the~~ Board; and (~~11-5-99~~)(____)
- k.** The news media pursuant to Subsection 135.03. A maximum of seven (7) news media may attend as witnesses. (11-5-99)

~~136. (RESERVED).~~

~~137. COUNTY JAIL BED SPACE ASSESSMENT.~~

~~The department shall biannually assess and review the county jails to determine bed space available for state sentenced prisoners.~~ (~~11-5-99~~)(____)

~~138. -- 301. (RESERVED).~~

302. HOUSING INMATES IN ~~NON-DEPARTMENT~~ COUNTY FACILITIES.

01. Payment of Daily Fee. The Department shall pay an Idaho county housing ~~a state sentenced an~~ inmate committed to the custody of the Board a daily fee as established by Section 20-237A, Idaho Code. The fee shall accrue and become payable beginning on the day after the county sheriff provides the notification required by Subsection 302.02. (~~11-5-99~~)(____)

- a.** The fee includes the ordinary daily expenses of housing an inmate, including room and board. (11-5-99)
- b.** The Department will pay for all ordinary medical and dental expenses of ~~state~~ inmates; committed to the custody of the Board subject to the provisions of Subsection 302.05. (~~11-5-99~~)(____)
- c.** The Department shall not make payment for inmates held on pending charges, inmate workers, trustees, and inmates held under court-ordered jurisdiction. (11-5-99)

02. Notification of New Commitment. Upon receiving into his custody an inmate sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. ~~The n~~Notification shall be made by sending a copy of the judgment of conviction to the Department by certified mail or facsimile transmission of a copy of a judgment of conviction. (~~11-5-99~~)(____)

03. Accepting the Inmate for Transport to a Department Facility. (11-5-99)

- a.** A newly sentenced and committed inmate shall not be accepted for transport from a county jail to a Department facility unless the notification required by Subsection 302.02 has been made or unless the director or his designee authorizes the transport in writing; and (11-5-99)
- b.** If a sheriff ~~moved~~ an state sentenced inmate committed to the custody of the Board to the jail of another county, the sheriff must immediately ~~notified~~ notify the Department. (~~11-5-99~~)(____)
- c.** Prior to the date of the transport of the inmate from a county jail to a Department facility, the sheriff shall have sent the following information about the inmate to the Department central records bureau: (~~11-5-99~~)(____)
 - i.** Judgment and commitment orders from the court; (11-5-99)
 - ii.** ~~Pre-sentence investigation report, if any;~~ (~~11-5-99~~)(____)

- iii. Jail disciplinary and incident reports, if any; and (11-5-99)
- iv. Medical and psychological files. (11-5-99)

04. Conditions of Confinement. The policies and guidelines of the ~~non-department facility county jail~~ shall ~~govern the conditions of the inmate's confinement~~ apply while the inmate is confined at the ~~non-department facility county jail~~, except as may be modified by this section or agreement between the Board and the ~~non-department facility county jail~~. (11-5-99)

05. Medical, Dental, Psychological and Psychiatric Care. ~~Delivery of routine medical, dental, psychological, and psychiatric services shall be the responsibility of the jail where the inmate is held, however, The Department's health authority shall have the responsibility for approving medical, dental, psychological, and psychiatric health care payments for inmates committed to the custody of the Board and housed in non-department facilities county jails. Delivery of routine medical, dental, psychological and psychiatric services shall be the responsibility of the facility where the inmate is held.~~ (11-5-99)(____)

a. All medical services for an offender housed in a ~~non-department facility county jail~~ delivered outside the ~~non-department facility county jail~~, including consultant appointments, scheduled hospitalizations, and dental care, shall be approved by the health authority, or designee prior to occurring, except as noted in ~~this Subsection 302.05~~. (11-5-99)(____)

b. The health authority, or designee, shall be notified the next working day of any emergency services. (11-5-99)

c. Any extraordinary treatment shall be approved by the health authority prior to treatment. Emergency care, which requires possible transport of the inmate out-of-state, requires prior approval by the health authority, or designee. (11-5-99)(____)

d. Failure to make the notifications required by ~~this Subsection 302.05~~ to the health authority or designee will result in the ~~non-department facility county jail~~ being held responsible for any charges or expenses incurred. (11-5-99)(____)

e. Transportation of the inmate to and from appointments shall be the responsibility of the ~~non-department facility county jail~~. An ~~state-sentenced~~ inmate committed to the custody of the Board shall not be left without security escort, except as may be approved by the director or designee. (11-5-99)(____)

06. Transporting Inmates. The Department will transport newly committed inmates from the county jail to a Department destination determined by the Department. The sheriff shall transport inmates from a Department facility to the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff ~~or non-department facility head~~. (11-5-99)(____)

07. Inmate Work Assignments. Inmates committed to the custody of the Board who are being held in county jails ~~or other non-department facility~~ may be assigned to work assignments or work projects subject to ~~this Subsection 302.07~~. No inmate shall be assigned to a work assignment or project outside of the secure perimeter of the jail ~~or non-department facility~~. An inmate shall not be outside of the secure perimeter of the jail ~~or non-department facility~~ when not directly supervised or escorted by security personnel, except upon approval of the director or designee. (11-5-99)(____)

(BREAK IN CONTINUITY OF SECTIONS)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. All ~~incoming~~ mail shall be opened and inspected to ~~make sure that it is not contrary to penological interests or is not obscene~~ ensure it does not contain prohibited items as described in Section

402. Mail may be withheld subject to the provisions of Subsection 402.064 and 402.05. (H-5-99)()

a. Books, magazines, and newspapers may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee. (H-5-99)()

b. ~~Incoming mail with stickers, stamps (other than cancelled postage) or other articles affixed that can be used to conceal contraband will be refused and returned to the sender~~ Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated. (H-5-99)()

02. General Legal Mail. ~~All incoming general mail shall be opened, inspected and may be read. Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated~~ Legal mail is confidential communication directly between an offender and an attorney, the court, and per court rules, opposing parties for service of documents and sheriff offices for service of documents. (H-5-99)()

a. To be recognized and treated as legal mail, correspondence from a legal source must be clearly marked "Legal Mail" and display the name, title and address of the sender. ()

b. Mail that does not meet the requirements of Section 402 shall be treated as regular mail. ()

c. Legal mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of Section 402, Department policies, or division standard operating procedures. ()

d. Legal mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. ()

e. Any sender of legal mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the division chief, have all incoming and outgoing mail treated as regular mail. ()

f. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. ()

03. Confidential Mail. ~~To be recognized and treated as confidential, mail from a confidential source shall be clearly marked with the name, title and address of the sender. Mail which does not meet the requirements of this section shall be treated as general mail~~ Confidential mail includes correspondence sent to or received from persons or entities such as the following: the President of the United States, the governor, the Idaho Legislature or U.S. Congress (except for bulk mailings), the Board, the director, IDOC chiefs and deputy chiefs, facility heads, public interest groups or government entities providing assistance for offenders, the Idaho Commission of Pardons and Parole or any member thereof, or the Consulate or Embassy of an offender who is a foreign national. (H-5-99)()

a. ~~Confidential mail should be opened in the presence of the inmate~~ To be recognized and treated as confidential, mail from a confidential source must be clearly marked "Confidential Mail" and display the name, title and address of the sender. (H-5-99)()

b. ~~Confidential mail should not be read, except that confidential mail be read by the facility head, or designee, if there is a reasonable suspicion that the content of the confidential mail violates Section 402, contains~~

~~contraband or otherwise compromises penological interests~~ Mail that does not meet the requirements of Section 402 shall be treated as regular mail. Confidential mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of this section, Department policies, or division standard operating procedures. (11-5-99)(____)

~~c. Correspondence between an attorney and an inmate client will be treated as confidential and not read if it meets the following criteria:~~ Confidential mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. (11-5-99)(____)

~~i. The envelope containing the correspondence shall be clearly marked on its face with the words "Confidential Legal Mail";~~

~~ii. The correspondence shall be clearly marked on its face with the words "Attorney-Client Confidential Communication"; and~~

~~iii. The inmate recipient shall not disclose the correspondence to any third person and shall store the correspondence in the inmate's allowed legal property or in a secure area provided by the facility for the storage of excess legal material. Failure to comply with this section shall waive any privilege or confidentiality in the correspondence.~~ (11-5-99)

~~d. Any confidential sender who includes contraband in an otherwise confidential correspondence or who shall assist or aid an offender in attempting to, or succeeding in, circumventing or violating any Board or Department rule, policy, procedure, directive, field memorandum, or other lawful guideline or order may, at the discretion of the administrator of the division governing the facility where the inmate was housed at the time the mail was received, have all future correspondence treated as general mail~~ Any sender of confidential mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the facility head, be restricted or prohibited from sending mail to or receiving mail from any inmate. (11-5-99)(____)

~~e. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail.~~ (____)

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department, may be withheld from the inmates. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The following types of materials are prohibited: (11-5-99)(____)

~~a. That which describes how to obtain, build or manufacture drugs, intoxicants, weapons or explosives~~ Items in a letter or package not authorized by policy or division standard operating procedures; (11-5-99)(____)

~~b. That which concerns, invites, advocates, aids or abets escapes, riots, insurrections, threats of physical harm to another person, threats of criminal activity, or plans to send contraband into the facility~~ Packages without prior authorization; (11-5-99)(____)

~~c. That which is obscene~~ Publications or items that describe the manufacture of weapons, bombs, explosives, alcohol and drugs, drug paraphernalia, or escape materials; (11-5-99)(____)

~~d. That which is in code~~ Information related to the crime or identity of another offender; and (11-5-99)(____)

~~e. Other materials, which in the opinion of the facility head, present a threat to penological interests.~~ Promotional items such as fragrance packs, CDs, computer software, stickers, handbags, T-shirts, baseball caps, in publications, magazines, periodicals etc. (Promotional items will be destroyed and the publication will be forwarded so that the mail process is not delayed); (11-5-99)

- f.** Fourth class mail/bulk mail; ()
- g.** More than one (1) subscription to the same periodical, magazine, etc.; ()
- h.** Publications or items evidencing gang involvement or activities (enemy lists, constitutions, structures, codes, signs, symbols, photographs, drawings, training material, clothing, etc.); ()
- i.** Publications or items advocating that any ethnic, racial, or religious group is inferior or that make such groups an object of ridicule and scorn. However, no publication will be withheld solely because of its appeal to a particular ethnic, racial, or religious group; ()
- j.** Publications or items that encourage violence between recipients and members of another group; ()
- k.** Publications not mailed direct from the publisher or a bookstore; ()
- l.** Clippings from magazines, books, or newspapers; ()
- m.** Postage stamps or envelopes. (Postage stamps are allowed at CWC facilities if the CWC does not have commissary services); ()
- n.** Greeting cards that are padded, laminated, musical, or larger than eight inches by ten inches (8" x 10"); ()
- o.** Photographs larger than five inches by eight inches (5" x 8") and instant photographs, for example, "Polaroid type" with layers. Photocopies are not photographs and may be on standard eight and one-half inches by eleven inches (8.5" x 11") paper; and ()
- p.** Other materials, which in the opinion of the facility head, present a threat to penological interests. ()

05. List of Prohibited Publications Prohibited Sexually Explicit and Pornographic Materials. *The Department may issue a list of publications which have been found to consistently violate the provisions of Section 402. These publications will be considered contraband and withheld without regard to and without further notice. The list shall be reviewed at least annually. A particular publication may be reviewed at any time upon a showing that there has been a change in content which removes the reason for the need to withhold the publication* Nudity, sexually explicit, and pornographic materials are prohibited. Written material of a sexual nature is permitted and is not included in this definition. Publications that do not feature nudity, but contain nudity illustrative of medical, educational, or anthropological content may be excluded from this definition. (H-5-99)()

a. Prohibited materials include pictorial depictions in books, pamphlets, magazines, periodicals, any other graphic images, or any other publication or any personal pictures, drawings, or any other graphic depiction, or photocopies of any of these items. ()

b. Publications, drawings, photocopies, and other pictorial materials that meet the description of nudity in this section, but the person has clothing or other covering that is transparent or virtually transparent are not permitted. ()

i. Nudity means a pictorial or graphic images depicting male or female genitalia, anus, or where the nipples or areola of female breasts are exposed; ()

ii. Feature means that a publication contains pictorial depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues; and ()

iii. Sexually explicit means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. ()

06. Withholding of Prohibited Material. ~~Whenever incoming mail may contain prohibited material as defined herein the facility head shall review the material to determine if it is prohibited or should otherwise be withheld. If it is not to be withheld, it shall be delivered to the inmate. If the facility head determines that the mail should be withheld, the sender shall be given notice that the material was withheld. The sender shall be given notice that the sender may contest the withholding by contacting the facility head, in writing, within fourteen (14) days of the date the notice is sent to the sender.~~ Any incoming mail suspected of containing any prohibited material defined in this section shall be withheld and reviewed by the facility head or designee to determine if it should be withheld or delivered to the inmate. If the facility head determines that the mail should be withheld, the offender will be given written notice. The offender may use the Department grievance procedure to contest the decision. (11-5-99)(____)

403. INMATE RELIGIOUS PRACTICES.

Inmates should have the opportunity to practice the tenets of their respective religious faiths, including access to religious publications, to representatives of their faiths, and to religious counseling, so long as those religious practices do not conflict with ~~penological interests~~ a compelling government interest. If compelling governmental interests exist to restrict an offender's religious practice, the Department will use the least restrictive means possible as determined by Department officials in accordance with Department policies, standard operating procedures, and good correctional practice. The Department ~~may~~ provides access to religious practices through volunteers in accordance with Section 606. No person shall serve as a religious volunteer who is also on an inmate's visiting list. The Department may develop guidelines and procedures for the conducting of religious activities. (11-5-99)(____)

404. (RESERVED).

405. ATTORNEY VISITS AND COURT PROCEEDINGS WITHIN A FACILITY.

~~**01. Attorney Visits With Inmates.** An inmate's attorney of record or approved legal assistant may visit with the inmate client consistent with Section 405. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. The facility head or designee may prohibit a visit if there is reason to believe the visit would present a threat to penological interests or if the attorney or approved legal assistant fails to act in an ethical manner. The facility head shall determine whether the visits are to be contact or non-contact visits, except as set forth in Subsection 405.03.~~ (11-5-99)

~~**02. Visiting Hours.** Visiting hours shall be designated and posted by the facility head. Visiting shall normally be allowed Monday through Friday, from 8 a.m. through 4 p.m., subject to penological interests. Special visiting hours may be approved by the facility head or designee. Visits must be scheduled twenty four (24) hours in advance.~~ (11-5-99)

~~**03. Visits with Death Sentenced Inmates.** Visits between death sentenced inmates and attorneys shall be made in substantial compliance with Sections 19-2705 and 19-2706, Idaho Code. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting.~~ (11-5-99)

~~**04. Visits with Groups of Inmates.** Visits with groups of inmates shall not be permitted unless verification of class certification or co-parties has been determined in advance through the Office of the Attorney General. Staff shall directly supervise group visits between groups of inmates and attorneys or approved legal assistants.~~ (11-5-99)

~~**05. Court Proceedings Within a Facility.** The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests.~~ (Also see Sections 510, 511, and 604.) (11-5-99)(____)

(BREAK IN CONTINUITY OF SECTIONS)

510. SEARCHES OF PERSONS AND VEHICLES ENTERING DEPARTMENT FACILITIES.

In order to maintain the secure and orderly operation of the facilities, the Department shall control access to all Department facilities. All persons enter upon or in to a Department property or facility at their own risk and will be required to comply with security and control measures. (Also see Section 511.) ~~(11-5-99)~~()

01. Persons Subject to Search. All persons and vehicles entering a facility or upon Department property are subject to search. (11-5-99)

02. Photo Identification Required. ~~All persons~~ Adults entering a facility or upon Department property ~~will be~~ are required to possess and present, on demand, photo identification. The Department will establish identification procedures for minor children in standard operating procedures. (Also see Section 604.) ~~(11-5-99)~~()

03. Contraband Prohibited. Any person who ~~shall~~ brings or attempts to bring any item or article of contraband ~~on to or into~~ a facility or ~~upon~~ onto Department property ~~shall will~~ be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. ~~(11-5-99)~~()

a. Members of the public bringing contraband on to or in a facility or Department property during a visit, tour or other sanctioned activity ~~shall will~~ be subject to immediate and permanent cancellation of the visit, tour or other sanctioned activity. ~~(11-5-99)~~()

b. Vendors, contractors, interns, volunteers or employees bringing contraband on to or in a facility, Department property or inmate work site ~~shall will~~ be subject to immediate termination of services as a vendor, contractor, intern, volunteer or employee. ~~(11-5-99)~~()

511. ACCESS TO DEPARTMENT FACILITIES.

~~Members of the public shall not have access to any facility or upon Department property except upon approval of the director, administrator of the division governing the facility, the facility head, or their designee. Persons entering on to or in a facility or~~ The Department shall not allow public access to any Department property or facility without approval of the director, division chief, facility head, or designees. The Department considers any person who enters onto Department property or into a facility without approval shall be considered to be trespassing and may be prosecuted according to law subject to arrest and prosecution pursuant to Idaho Code. (Also see Section 510.) ~~(11-5-99)~~()

01. Access and Egress Control. The Department will establish standard operating procedure to control access to and egress from all Department properties and facilities. ()

02. Persons Subject to Search. All persons entering onto Department property or into facilities are subject to search (see Section 510). ()

512. -- 600. (RESERVED).

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the ~~administrator~~ chief of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (Also see Sections 123, 510, and 511.) ~~(11-5-99)~~()

602. -- 603. (RESERVED).

604. VISITING INMATES.

01. No Right to Visit Established. Nothing in Section 604 establishes a right to visit any inmate. Nothing in Section 604 should be interpreted as an expectation that visitation will be approved between any person and any inmate if the Department has suspended, terminated, or revoked a visitor or inmate's visiting privileges.

(Also see Sections 405, 510, and 511.)

()

012. Visitation at the Discretion of the ~~Facility Head~~ Department. Inmate visitation is allowed at the discretion of the facility head, or designee. Each division ~~and each facility~~ may ~~promulgate directives or~~ develop standard operating procedures and field memoranda to govern inmate visiting. Whether a visit is contact or non-contact ~~shall will be in the sole~~ at the discretion of the facility head, in accordance with standard operating procedures subject to Subsection 405.03. (H-5-99)()

023. Visitation Lists. To visit an inmate, a person must apply with the facility, on an approved Department form ~~supplied by the facility, to be on the inmate's visiting list.~~ Only persons approved to be on an inmate's visiting list may visit with an inmate, except as noted in Subsection 604.034. (H-5-99)()

a. ~~Upon approval to be on the inmate's visiting list, the person shall be given a copy of the facility's guidelines governing visiting within the facility~~ Visitors are responsible for reading and following the Department's rules that govern visiting. The rules can be found at the Department's website or they can be obtained at the facility visiting room during visiting hours. (H-5-99)()

b. A person applying to visit an inmate ~~shall be~~ is subject to a criminal background investigation and check for outstanding warrants. (H-5-99)()

034. One-time and Special Visits. The facility head, ~~in his sole discretion,~~ or designee may approve a one-time or special one-time inmate visit between an inmate and a person who is not on the inmate's visiting list ~~and the inmate if doing so will not be contrary to penological interests.~~ Guidelines for approving one-time and special visits are provided in standard operating procedures. Application to the facility head for a one-time or special visit shall must be made at least twenty-four (24) hours ~~prior to~~ before the visit. (H-5-99)()

045. Restricted Visitors. The following people ~~shall will~~ not be granted permission to visit an inmate, except as noted in Subsection 604.05. ~~Nothing in this section shall be construed to grant a right to visit or as a guarantee that an application for visiting will be approved after the minimum period stated or when the other stated conditions are met. Nothing in Section 604 shall grant a right to visit on behalf of an inmate.~~ (H-5-99)()

a. ~~A former inmate shall not be approved for visiting unless the former inmate is the immediate family of the inmate and a minimum of six (6) months has passed from the former inmate's release from confinement~~ Applications to visit from former inmates will be considered on an individual basis. Guidelines for approval are provided in standard operating procedures. (H-5-99)()

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months ~~from~~ has passed since release to probation or parole and then only with the written approval of the supervising probation or parole officer ~~in addition to the approval of~~ and the facility head or designee. (H-5-99)()

c. ~~A minor shall not visit an inmate~~ Minor children are not allowed to visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent, ~~or~~ legal guardian, or state-appointed case manager. ~~Proof of legal guardianship may be required by the facility head~~ A minor claiming relationship to the inmate as a stepchild cannot visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent authorizing and giving permission for the visit with the inmate. If the other natural parent's whereabouts are unknown, the parent making application is responsible for establishing, to the satisfaction of the facility head, the unavailability of the other natural parent. Guidelines for submitting visiting applications for minor children are provided in standard operating procedures. (H-5-99)()

i. ~~A minor who was the victim of a crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, whether conviction resulted or not, shall not visit an inmate except upon express written recommendation of a licensed counselor in furtherance of the counseling process and when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head.~~ (H-5-99)

ii. ~~A minor claiming relationship to the inmate as a stepchild shall not visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent, if available, authorizing and giving permission for the visit with the inmate. The visiting parent shall be responsible to establish to the satisfaction~~

of the facility head the unavailability of a natural parent.

(11-5-99)

d. An inmate who was convicted of any crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, as the terms "crime" and "conviction" are defined in Sections 18-8304 and 19-5506, Idaho Code, where the victim of the crime was a minor shall not A minor child who was the victim of a violent or sexual crime where the inmate was the perpetrator of the crime, whether a conviction resulted or not, cannot visit with any minor except when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head. the inmate unless all of the following conditions in Subsections 604.05.d.i. through 604.05.d.iii. are met:

(11-5-99)()

i. A written recommendation is submitted from a licensed counselor who provided counseling to the child, indicating the visit will enhance the counseling process and is in the child's best interest. The recommendation must include the length of time the counselor provided counseling to the victim, the counselor's training and experience in counseling victims of violent and/or sexual crimes, and why it is now in the best interest of the child to allow visitation with the inmate.

()

ii. The visitation request must be approved by the facility head, based on the best interest of the minor child. What is in the best interest of the minor will be determined at the discretion of the facility head.

()

iii. The facility head may impose additional visitation restrictions on inmates convicted of a violent or sexual crime when visiting minor children.

()

e. A Department employee, volunteer, vendor, intern, or contractor shall cannot visit an inmate, except if unless the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head provides express written approval approves the visiting application. Upon termination of the relationship with the Department conferring the status of employee, volunteer, vendor, intern, or contractor, visiting shall not be approved with an inmate until a minimum of six (6) months from the date of termination of the relationship with the Department.

(11-5-99)()

f. A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of all inmates. A person shall not be approved to visit an inmate if, within six (6) months prior to the current application, the person was an approved visitor on another inmate's visiting list. If a former Department employee, volunteer, vendor, intern, or contractor applies to visit an inmate and it is determined that the applicant violated any Department rule and/or Section of Idaho Code, the application will normally be denied.

(11-5-99)()

g. A person claiming a relationship as immediate family of an inmate may be required to provide proof through documentation the existence of the relationship. The level of proof required shall be at the discretion of the facility head. If the applicant is not immediate family of the inmate, the applicant cannot visit an inmate unless the applicant terminates the relationship of employee, volunteer, vendor, intern, or contractor with the Department, and then the person cannot visit an inmate unless the chief of the division that governs the facility approves the visiting application. Nothing in this section guarantees that a former employee, volunteer, vendor, intern, or contractor will be approved to visit an inmate.

(11-5-99)()

h. A person who has pending criminal charges or who is the subject of a criminal investigation shall not be permitted to visit an inmate, except upon express written approval of the facility head, or designee on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of more than one (1) inmate being visited. A person will not be approved to visit an inmate if, within six (6) months before the current application, the person was an approved visitor on another inmate's visiting list.

(11-5-99)()

i. A person claiming to be immediate family of an inmate may be required to provide proof of relationship through documentation. The level of proof required will be at the discretion of the facility head and in accordance with standard operating procedures.

()

j. A person who has pending criminal charges or who is the subject of a criminal investigation will not be permitted to visit an inmate, except upon written approval of the facility head or designee.

()

056. Termination of Visits. A visit may be suspended, restricted, or terminated at any time, for any period of time; ~~(including permanently), for violation of any;~~ ()

a. Board rule; ()

b. ~~Department Ppolicy, and~~ standard operating Pprocedure, facility directive, or field memoranda; or ()

c. ~~At the discretion of the facility head or designee~~ in accordance with standard operating procedures. ()

d. Persons who have had visiting privileges permanently terminated ~~permanently~~ may apply ~~to the administrator of the division governing the facility for reconsideration of the termination decision~~ within fourteen (14) days ~~from the termination of visiting~~ to the chief of the division that governs the facility for reconsideration of the termination decision, and on an annual basis thereafter. (11-5-99)()

06. No Right to Visit Conferred on Inmates. ~~Nothing herein shall be construed to confer any right to visit to or on behalf of any inmate. Nothing herein shall be construed to confer any expectation of visiting for any previously approved visitor with any inmate who has had visiting privileges revoked by the facility head or who is otherwise not allowed to visit.~~ (11-5-99)

07. Attorney Visits With Inmates. An attorney or his approved agent may visit with an inmate consistent with this section. The facility head or designee may prohibit a visit if the visitor violates or attempts to violate any Department rules. The facility head shall determine whether the visits will be contact or non-contact visits. (Also see Sections 510 and 511.) ()

08. Attorney Visiting Hours. The facility head will designate visiting hours for attorney visits, which will normally be Monday through Friday, from 8 a.m. through 4 p.m. The facility head or designee may approve special visiting hours. Visits must be scheduled twenty-four (24) hours in advance. ()

09. Attorney Visits With Death Sentenced Inmates. Visits between inmates under the sentence of death and attorneys will be made in substantial compliance with Section 19-2705, Idaho Code. Attorneys and their agents shall comply with this Subsection 604.09 and all facility regulations, policies, and standard operating procedures governing visiting. (Also see Sections 510 and 511.) ()

10. Attorney Visits With Groups of Inmates. Visits with groups of inmates will not be permitted unless the Office of the Attorney General has verified class certification or co-parties. Staff will directly supervise visits between groups of inmates and attorneys or their approved agents. (Also see Sections 510 and 511.) ()

605. (RESERVED).

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate ~~programs~~ activities. (11-5-99)()

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate ~~a~~ staff members to ~~be responsible for coordination of~~ coordinate and oversee the volunteer program. (11-5-99)()

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation and Training. Orientation and training of volunteers shall include completion of a Department-approved training curriculum ~~approved by the director.~~ (11-5-99)()

05. Visiting with Inmates. Volunteers are not allowed to visit any inmate unless the inmate is an immediate family member of the volunteer. (Also see Sections 510, 511, and 604.) ()

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility, or upon written approval of the ~~administrator~~ chief of the division of prisons, if housed in a ~~non-department~~ county facility. (Also see Sections 510 and 511.) (11-5-99)()

608. ~~INMATE HOBBY CRAFT.~~

~~Inmate hobby craft items may be sold to the public in compliance with division of prison directives. Any such sales shall include an amount for taxes owed and an addition to defray costs incurred by the facility.~~ (11-5-99)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0701

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 19, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 39-4107(1) and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Cities enforcing building codes need additional time to incorporate costs into their budgets and to pass appropriate ordinances to enforce the 2006 International Building Codes. This rule promulgation is in response to a petition from the City of Boise requesting rulemaking as well as verbal requests and correspondence received from other municipalities. Rule 07.03.01.004 of the Building Code Board will be amended by a temporary rule allowing local governments until January 1, 2008 to begin enforcement of the 2006 editions of the International Codes.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule change is justified as it confers a benefit upon Idaho cities, counties, building contractors, and homeowners.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 17th day of July, 2007.

Stephen L. Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, Idaho 83720
(208) 332-8986 phone
(208) 855-2164 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-0701

004. ADOPTION AND INCORPORATION BY REFERENCE.

01. Building Codes. Under the provisions of Section 39-4109, Idaho Code, the following codes are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced

codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or <http://www.iccsafe.org>. ~~(3-30-07)~~(6-19-07)T

~~01a.~~ **International Building Code.** 2006 Edition. (3-30-07)

~~02b.~~ **International Residential Code.** 2006 Edition. (3-30-07)

~~03c.~~ **International Energy Conservation Code.** 2006 Edition. (3-30-07)

02. Exception. Local governments enforcing building codes pursuant to Section 39-4116, Idaho Code, will have until January 1, 2008 in which to begin enforcement of the 2006 editions of the International Codes. (6-19-07)T

IDAPA 09 - DEPARTMENT OF LABOR

09.01.06 - RULES OF THE APPEALS BUREAU

DOCKET NO. 09-0106-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.06.026.05 and 066.02 would be amended to remove the word "tape" in reference to the recordings made of appeals hearings. Because the technology is now available to produce compact discs as recordings of telephonic appeals hearings, it is an efficient use of resources to send parties CDs instead of cassette tapes as part of the record when appeals are filed with the Industrial Commission.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no impact on the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, "Idaho Rules of Administrative Procedure of the Attorney General," negotiated rulemaking was not conducted because the agency determined it was not feasible because of the simple nature of the change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Karpach, Appeals Bureau Chief, 332-3570 ext. 3572.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Joe Karpach
Appeals Bureau Chief
Department of Labor
317 W. Main Street
Boise, ID 83735
332-3570 ext. 3572 / 334-6440 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-0701

026. CONDUCT OF HEARING.

Upon request for appeal, a hearing shall be set and written notice of the time and place of hearing shall be mailed to each interested party not less than seven (7) days prior to the hearing date. ~~(2-25-94)(L)~~

01. Telephone Hearings. Hearings will be held by telephone unless, in the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner shall consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. (3-19-99)

02. Continuance. The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may order the dismissal of an appeal for good cause, such as abandonment of the appeal. (3-19-99)

03. Rehearing. An application for rehearing shall be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. (3-19-99)

04. No Appearance Hearings. If no party appears to present additional evidence, a decision may then be based on the existing record. For this purpose, the existing record will consist of documents maintained by the Department in the ordinary course of adjudicating the issues in the case, copies of which have been provided to the parties with the notice of hearing. (4-11-06)

05. Exhibits and Recordings. The exhibits and ~~tape~~ recordings from a hearing may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. ~~(3-19-99)(L)~~

06. Subpoenas. After determining that a subpoena of a witness or records is necessary and reasonable, the appeals examiner shall issue the subpoena, which may be served by mail or in person. (3-19-99)

07. Failure to Respond to Subpoena. If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing the available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. (3-19-99)

08. Witness Fees. Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, shall be entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case shall a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses shall also be entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses shall be paid from the Employment Security Administration fund. Under no circumstances shall interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. (4-5-00)

09. Undecided Issues. When it is apparent that there is no prior ruling on an issue which must be decided under the Act, the appeals examiner may hear and decide the issue. (3-19-99)

10. Type of Hearing. The proceeding before an appeals examiner will be a hearing "de novo" or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

11. Role of Appeals Examiner. The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

12. Order of Witnesses. The appeals examiner will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Therefore, as a general rule, the party who bears the burden of proof will be called to testify first. The appeals examiner will exercise reasonable discretion in directing the order, which must be flexible and dependent upon the particular circumstances of each case

and which party has the most information. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

13. Evidence. The appeals examiner may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-11-06)

14. Disruptive Individuals. The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, he will be provided a copy of the ~~tape~~ recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (~~4-5-00~~)()

15. Challenge of General Knowledge. If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them either at the time of the hearing or prior to or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

16. Closing Arguments. Closing arguments including response in an appeals hearing will be limited to a total of five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

027. -- 065. (RESERVED).

066. CLAIMS FOR REVIEW.

01. Claim for Review Under the Employment Security Law. A claim for review of the appeals examiner's decision, as provided in Section 72- 1368, Idaho Code, shall be made in writing, signed by the person claiming the review or by his attorney or agent, and filed with the Idaho Industrial Commission in accordance with rules adopted by them. Ref. Sec. 72-1368(7) Idaho Code. (4-5-00)

02. Transcripts. Upon receipt of a notice that a claim for review has been filed with the Industrial Commission, a true and correct transcript of the recorded proceedings shall be prepared if ordered by the Commission. Copies of the transcript or the ~~tape~~ recording of the proceeding, together with the exhibits received in the case, shall be transmitted by the Department to the Commission and provided to all interested parties without charge. (~~3-19-99~~)()

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-0701
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.30.550 would be amended to add a sentence requiring claimants to use their assigned reporting method when filing claim reports unless the Department reassigns them a different reporting method. The rule on claimant reporting requirements needs to be clarified to indicate that after claimants are assigned a reporting method, they may not file claim reports using a different reporting method unless the Department reassigns the reporting method.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no impact on the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is being made to clarify an existing rule that has caused confusion.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Roger Holmes
UI Benefits Bureau Chief
Department of Labor
317 W. Main St.
Boise, ID 83735
332-3570 ext. 3233 / 334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0701

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. ~~(3-19-99)~~(____)

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (3-19-99)

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (3-19-99)

03. Telephone/Internet Reports. Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (3-20-04)

04. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

IDAPA 09 - DEPARTMENT OF LABOR
09.02.01 - RULES OF THE DISABILITY DETERMINATIONS SERVICE
DOCKET NO. 09-0201-0701 (NEW CHAPTER)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

New IDAPA 09.02.01 is proposed in response to a request by the Social Security Administration (SSA) to limit the length of time allowed for Disability Determinations Service's (DDS) vendors to submit invoices for payment. A rule that requires a vendor to submit invoices within one year of the date services were provided is reasonable and would satisfy SSA, which funds DDS's services with federal grants. The proposed rule would set a one-year time limit for submission of bills by vendors from date of service in order to receive payment. If the rule is not promulgated, DDS will continue to have outstanding unliquidated obligations for a five-year period, which jeopardizes federal reimbursement for any obligations that are not submitted within the five-year period.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no impact on the General Fund as a result of this rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to federal recommendations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Vazques, Administrator, Disability Determinations Service 332-3570 ext. 2303.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Nancy Vazquez, Administrator
Disability Determinations Service
1505 McKinney
PO Box 21, Boise, ID 83704
332-3570 ext. 2303 / 327-7331 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0201-0701

IDAPA 09,
TITLE 02
CHAPTER 01

09.02.01 - RULES OF THE DISABILITY DETERMINATIONS SERVICE

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.02.01, "Rules of the Disability Determinations Service." ()

02. Scope. These rules govern time limits for submission of invoices by vendors for payment for services. ()

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

There is no administrative appeal from any proceedings brought pursuant to this chapter. ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Department for information regarding the Disability Determinations Service is: Disability Determinations Service, 1505 McKinney, Boise, ID 83704. The telephone number is (208) 327-7333 and the facsimile machine number is (208) 327-7331. Office hours are between 8 a.m. and 5 p.m. on regular business days Monday through Friday. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules. ()

01. Consultative Examinations. Consultative examinations include physical and mental examinations, x-rays, laboratory tests, and special diagnostic studies from qualified sources. ()

02. Medical Evidence of Record. Medical evidence of record includes, but is not limited to, medical history reports, medical opinions, treatment records, copies of laboratory reports, prescriptions, ancillary tests, x-rays, operative and pathology reports, consultative reports, and other technical information used to document disability claims. ()

03. Applicant Travel. Applicant travel includes costs associated with applicants, beneficiaries, recipients, and other authorized individuals in connection with attending medical examinations or disability hearings by common carrier (air, rail, or bus), privately owned vehicles, commercially rented vehicles, and other special conveyances. ()

04. Interpretive Services. Interpretive services include authorized contracted interpreters for individuals with limited English proficiency or requiring language assistance for a consultative examination or disability hearing. ()

011. -- 021. (RESERVED).

022. PAYMENT FOR SERVICES.

In order to receive payment for services provided, submission of bills must be within one year from date of service. This includes consultative examinations, medical evidence of record, applicant travel, and interpretative services. ()

023. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

DOCKET NO.11-0701-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-2901A and 49-901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The General Provision section of this rule references outdated Idaho codes and outdated federal standards, SAE standards, and other standards, codes and/or specifications. The outdated references in this section are being deleted and the current codes, standards, and/or specifications are being incorporated by reference

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact to the general fund from these rule changes.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change to rule is to update mandatory references and reformat the rules in a manner to make them more readable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7222.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 1st day of August, 2007.

Lt. Colonel Kevin Johnson
Deputy Director
Idaho State Police
700 S. Stratford
P. O. Box 700
Meridian, ID 83680-0700
208-884-7200 / Fax 208-884-7290

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0701-0701

IDAPA 11
TITLE 07
CHAPTER 01

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

000. LEGAL AUTHORITY (RULE 0).

These rules adopting national safety codes and standards are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67- 2901(4) and 49-901, Idaho Code. (5-3-03)(____)

001. TITLE AND SCOPE (RULE 1).

01. Title. ~~These rules are cited as~~ The name of this chapter is IDAPA 11.07.01, "Rules Governing Motor Vehicles - General Rules." (5-3-03)(____)

02. Scope. ~~The rules apply to motor vehicles~~ All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with these rules. (5-3-03)(____)

002. WRITTEN INTERPRETATIONS (RULE 2).

~~There are no written interpretations of these rules.~~ The Director of Idaho State Police Safety is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor vehicles and other filings relating to motor vehicles maintained by the Department pursuant to law. The Director may be contacted in writing at the Idaho State Police, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7200. For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. The Department reserves to itself the authority to issue formal declaratory orders construing these items. (5-3-03)(____)

003. ADMINISTRATIVE APPEALS (RULE 3).

All administrative appeals under these rules are conducted under IDAPA 04.11.01 et. seq, "Idaho Rules of Administrative Procedure of the Attorney General." (5-3-03)

~~**004. INCORPORATION BY REFERENCE.**~~

~~These rules do not incorporate any documents by reference.~~ (5-3-03)

~~**0054. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 4).**~~

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (5-3-03)

02. Mailing Address. The mailing address for the ~~central~~ headquarters office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (5-3-03)(____)

03. Street Address. The ~~central~~ headquarters office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (5-3-03)(____)

~~**0065. PUBLIC RECORDS ACT COMPLIANCE (RULE 5).**~~

~~These rules are public records available for inspection and copying at the department.~~ All materials in motor vehicle rule files, except those that are exempt from disclosure pursuant to Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to Section 9-335, Idaho Code. (5-3-03)

~~007. -- 009. (RESERVED).~~

0406. DEFINITIONS (RULE 6).

01. Department. The "Department," as used herein, means the Idaho State Police. (7-1-93)

02. Director. The "Director," as used herein, means the Director of the Idaho State Police. (7-1-93)

03. Motor Vehicle. The term "motor vehicle" as used herein, means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. ()

04. Highway. The term "Highway" as used herein means the public roads, highways, and streets of the State. ()

007. CITATION (RULE 7).

The official citation of these rules is IDAPA 11.07.01.000 et seq. For example, this rule is cited as IDAPA 11.07.01.007. ()

008. INCORPORATED BY REFERENCE (RULE 8).

Rules 20, 30, and 40 incorporate by reference various state and national safety codes and federal regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the Headquarters Office of the Idaho State Police, listed in Rule 004. The following codes and standards are incorporated: ()

01. Society of Automotive Engineers (SAE). The SAE Ground Vehicle Lighting Standards Manual and SAE standards are published by the Society of Automotive Engineers and are available from SAE World Headquarters, 400 Commonwealth Drive, Warrendale, PA 15096-0001 and may be ordered by calling 1-877-606-7323 or on the worldwide web at <http://store.sae.org/>. ()

03. Idaho State Department of Education, Pupil Transportation Manual. The Pupil Transportation Manual is published by the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, ID 83720-0027 and may be ordered by calling 1-208-332-6800 or downloaded from the worldwide web at <http://www.sde.idaho.gov/Transportation/library.asp>. ()

03. Federal Regulations – 49 C.F.R. Parts 392, 393, and 571. These regulations are found in the Code of Federal Regulations, available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 37954, Pittsburgh, PA 15250-7954. The incorporated parts are also available on the worldwide web at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>. ()

~~009. -- 019. (RESERVED).~~

~~011. GENERAL PROVISIONS.~~

~~01. General Rules.~~ Pursuant to Section 49-590(1), Idaho Code, the Director hereby adopts by reference the standards found in the "School Transportation Manual" approved by the Idaho State Department of Education as if set forth herein in full. (7-1-93)

~~02. Lighting Equipment.~~ Pursuant to Section 49-809A(4), Idaho Code, the Director hereby adopts by reference the standards found in the "School Transportation Manual" approved by the Idaho State Department of Education as if set forth herein in full. (7-1-93)

~~03. Certain Vehicles Required to Stop at All Railroad Crossings.~~ Pursuant to Section 49-673(3), Idaho Code, the Director hereby adopts by reference the requirements found in the "Federal Motor Carrier Safety Regulations, Subpart B, Section 392.10," as if set forth herein in full. (7-1-93)

~~04. Standards for Safety Helmets.~~ Pursuant to Section 49-761A(c), Idaho Code, the Director hereby

adopts by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full.
(7-1-93)

~~**05. Standards and Specifications for Lighting Devices.** Pursuant to Section 49-830, Idaho Code, the Director hereby adopts by reference the standards and specifications set forth by the Society of American Engineers in the "1984 SAE Handbook, Chapter 21," as if set forth herein in full.~~ (7-1-93)

~~**06. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional).** Pursuant to Section 49-820A(g), Idaho Code, the Director hereby adopts by reference the standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J186 NOV82," as if set forth herein in full.~~ (7-1-93)

~~**07. Modulating Headlights for Motorcycles.** Pursuant to Section 49-830, Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S4.6, which is hereby adopted by reference as if set forth herein in full.~~ (7-1-93)

~~**08. Standards for Devices Without Self Contained Energy Sources.** Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to flares and warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full.~~ (7-1-93)

~~**09. Devices With Self Contained Energy Sources.** Warning devices with self-contained energy sources permissible, under this chapter are limited to electric emergency lanterns, liquid burning emergency flares, and fuses.~~ (7-1-93)

~~**a. Standards For Electric Emergency Lanterns --** Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to electric emergency lanterns found in "SAE J596," as if set forth herein in full.~~ (7-1-93)

~~**b. Standards For Liquid Burning Emergency Flares --** Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to liquid burning emergency flares found in "SAE J597," as if set forth herein in full.~~ (7-1-93)

~~**c. Standards for Fuses.**~~ (7-1-93)

~~**10. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications.** Pursuant to Section 49-844, Idaho Code, the Director hereby adopts by reference the standards set forth in "Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639 OCT81," as if set forth herein in full.~~ (7-1-93)

012. BUILT-IN LUGS.

020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE) (RULE 20).

The Director incorporates by reference the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions of the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. ()

01. Standards and Specifications for Lighting Devices. Pursuant to Section 49-901(1), Idaho Code, the Director hereby incorporates by reference the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, as if set forth herein in full. ()

02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional). The current standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and J588," is found in Section 49-921, Idaho Code, as if set forth herein in full. ()

03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications. Pursuant to Section 49-901(7), Idaho Code, the Director hereby incorporates by reference the current standards set forth in “Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639,” as if set forth herein in full. ()

021. -- 029. (RESERVED).

030. IDAHO STATE DEPARTMENT OF EDUCATION, PUPIL TRANSPORTATION MANUAL (RULE 30).

The Director incorporates by reference the standards found in the January 2006, “Pupil Transportation Manual” approved by the Idaho State Board of Education. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards found in the “Pupil Transportation Manual.” ()

01. General Rules. Pursuant to Section 49-901(8), Idaho Code, the Director hereby incorporates by reference the standards found in the January 2006, “Pupil Transportation Manual” approved by the Idaho State Department of Education as if set forth herein in full. ()

02. Lighting Equipment. Pursuant to Section 49-901(2), Idaho Code, the Director hereby incorporates by reference the standards found in the January 2006, “Pupil Transportation Manual” approved by the Idaho State Department of Education as if set forth herein in full. ()

031. -- 039. (RESERVED).

040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571 (RULE 40).

The Director incorporates by reference Title 49 of the Code of Federal Regulations, October 1, 2007 edition, Parts 392, 393, and 571. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. ()

01. Certain Vehicles Required to Stop at All Railroad Crossings. Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) Part 392, Subpart B, Section 392.10, as if set forth herein in full. ()

02. Devices With Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fuses and liquid burning flares found in 49 C.F.R., Part 393, Subpart H, Section 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fuses. ()

03. Modulating Headlights for Motorcycles. Pursuant to Section 49-925, 49-901(3), 49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S7.9.4, which is hereby adopted by reference as if set forth herein in full. ()

04. Standards for Safety Helmets. Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. ()

05. Standards for Devices Without Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to flares and warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. ()

01341. -- 999. (RESERVED).

IDAPA 14 - BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

14.01.01 - RULES OF PROCEDURE OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

DOCKET NO. 14-0101-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2808, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rules are necessary to add required rule sections, remove policy and procedure language concerning the order of business at Board meetings, and to correct grammatical and clerical errors; to add a definition for the term "application" and clarify the definition of "geologist-in-training"; to remove an examination processing fee and clarify that application and examination fees are non-refundable; to add provisions to establish the electronically-generated seal image; to reduce the time for submission of applications prior to examination and clarify the content of personal references for application; to specifically identify the examination title; to clarify the scope of examination; to clarify the scoring and inspection of examinations; to reduce the time to appeal examination results; and to provide a Code of Ethics.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

To remove a processing fee and clarify that application and examination fees are non-refundable.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the noncontroversial nature of the rule changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Margaret Odedo, Administrative Assistant, at (208) 334-2268.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 17th day of July, 2007.

Margaret Odedo
Administrative Assistant
Board of Registration for Professional Geologists
550 W. State St.
P. O. Box 83720
Boise, Idaho 83720-0033
(208) 334-2268 phone
(208) 334-5211 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 14-0101-0701

IDAPA 14
TITLE 01
CHAPTER 01

RULES OF PROCEDURE OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 14.01.01, "Rules of Procedure of the ~~Idaho~~ Board of Registration for Professional Geologists." These rules establish procedures for the organization and operation of the Board.

(7-1-93)()

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules, or to compliance with these rules. Any such documents are available for public inspection and copying at cost at the Board office.

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003. ADMINISTRATIVE APPEALS.

The Board shall hold hearings on disputed matters or complaints as provided for in the Act, in these rules ~~of procedure~~, or in Title 67, Chapter 52, Idaho Code. The chairman, or a member of the Board appointed by the chairman, shall act as presiding officer at all hearings. Rules of procedure for the conduct of such hearings shall be in accordance with the applicable provisions of the Act, of these rules ~~of procedure~~, and of Title 67, Chapter 52, Idaho Code.

(7-1-93)()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules.

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005. OFFICE INFORMATION -- OFFICE HOURS.

01. Address. The office of the Board is located at 3350 Americana Terrace, Suite 243, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is P. O. Box 83720, Boise, Idaho 83720-0033.

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02. Telephone and Fax. The telephone number of the office is (208) 334-2268. The facsimile number of the office is (208) 334-5211.

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03. E-Mail. The email address of the Board is ibpg@ibpg.idaho.gov.

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04. Website. The website address of the Board is <http://www2.idaho.gov/ibpg>.

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006. PUBLIC RECORDS ACT COMPLIANCE.

Board records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records.

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0047. -- 009. (RESERVED).

010. DEFINITIONS.

For the purposes of these rules, the following definitions apply:

(7-1-93)()

01. Act. The legislation enacted by the First Regular Session of the Forty-first Legislature (Chapter 137, 1971 Session Laws), and compiled at Sections 54-2801, et seq., Idaho Code, providing for registration of professional geologists. (7-1-93)(____)

02. Applicant. Any person who has made application for registration under the Act and who has neither been granted registration nor had the Application denied by the Board. (7-1-93)(____)

03. Application. An Application consists of completed form or forms prescribed by the Board and all official transcripts, reference statements, and a signed code of ethics. (____)

034. Board. The Idaho Board of Registration for Professional Geologists as provided for in the Act. (7-1-93)

045. Geologist-in-Training. The interim designation given to Any person who has ~~taken~~ met the academic requirements and successfully passed the ~~portion of the professional examination covering~~ fundamental ~~or~~ and academic geological subjects, ~~prior to his completion of~~ portion of the professional examination but has not yet completed the requisite years of experience ~~in geologic work, and passed the practices of geology examination~~ as provided ~~for~~ in the Act. The Geologist-in-Training designation is applicable for a period of ten (10) years from notification of the successful completion of the fundamentals of geology examination. If after ten (10) years the Geologist-in-Training has not met all requirements for registration as a professional geologist, the Geologist-in-Training certification is withdrawn and the Applicant must re-apply for registration. The possession of a Geologist-in-Training certificate by an Applicant does not entitle the Applicant to practice professional geology without supervision as provided in the Act. (7-1-93)(____)

056. Registrant. Any person currently registered as a professional geologist under provisions of the Act. (7-1-93)

067. Responsible Position. A position wherein a person, having independent control, direction, or supervision of a geological project, investigates and interprets geologic features. (7-1-93)

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS.

01. Offices Filing of Documents. ~~The principal office of the Board shall be maintained at 3350 Americana Terrace, Suite 243, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0033; to which a~~ All correspondence, including remittances and renewal fees, shall be directed to the office of the Board. ~~The telephone number of the Board is (208) 334-2268.~~ (4-6-05)(____)

02. Meetings. The Board shall meet at least once each year at the call of the chairman, ~~within ninety (90) days following the annual examinations;~~ the Board shall elect a chairman, vice-chairman, and secretary at such annual meeting. In addition to this annual meeting, the chairman may call special meetings from time to time when, in his opinion, it is deemed necessary, or upon the written request of any three (3) members of the Board. (7-1-93)(____)

03. Order of Business. ~~The order of business at meetings shall be as follows:~~ (7-1-93)

~~a. Reading of minutes;~~ (7-1-93)

~~b. Financial report;~~ (7-1-93)

~~c. Reports of officers;~~ (7-1-93)

~~d. Reports of committees;~~ (7-1-93)

~~e. Reading of communications;~~ (7-1-93)

f.	Unfinished business;	(7-1-93)
g.	New business;	(7-1-93)
h.	Consideration of applications, examinations, and fees;	(7-1-93)
i.	Consideration of petitions, complaints, suspensions, and revocations;	(7-1-93)
j.	Miscellaneous;	(7-1-93)
k.	Adjournment.	(7-1-93)
l.	Robert's Rules of Order shall govern procedure of the Board except as otherwise provided by the act or these rules.	(7-1-93)

043. Officers. Officers elected from the Board shall be chairman, vice-chairman, and secretary. An assistant secretary may be selected who need not be a member of the Board. (7-1-93)

a. The chairman shall be the executive head of the Board; shall, when present, preside at meetings; shall appoint committees; and shall perform all the duties pertaining to the office of chairman. (7-1-93)()

b. The vice-chairman shall, in the absence or incapacity of the chairman, exercise the duties and possess all the powers of the chairman. (7-1-93)

c. The secretary shall, with assistance of an assistant secretary and staff as authorized by the Board: (7-1-93)

i. Keep correct minutes of the Board and furnish a copy to all members of the Board; (7-1-93)

ii. Send ~~written~~ notice of all regular and special Board meetings to each member ~~not less than ten (10) days~~ in advance thereof; (7-1-93)()

iii. Examine each Application for registration and bring about necessary corrections or the supplying of missing or essential data in connection with such Application prior to consideration thereof by the Board; (7-1-93)

iv. Address inquiries, where deemed necessary, to references or Applicants to verify qualifications, experience, or character; (7-1-93)

v. Make arrangements, as required by the Board, for examinations, interviews, or hearings; (7-1-93)

vi. Report to the Board members the result of every examination and other evidence of qualification of each Applicant; (7-1-93)

vii. Prepare the required annual report and roster; (7-1-93)

viii. Keep all records, including minutes, register of Applicants and Registrants, and roster; (7-1-93)

ix. Receive and deposit all funds and fees, as provided by the Act, and keep records of all receipts and disbursements; (7-1-93)

x. Attend to all official correspondence of the Board; (7-1-93)

xi. Perform all other duties as prescribed by the Act or which normally pertain to the office of secretary. (7-1-93)

054. Committees. Regular or special committees may be appointed by the chairman, as necessary, to perform special duties and shall present reports to the Board at the time specified or at the earliest regular or special

meeting of the Board. (7-1-93)

065. Quorum. As provided in the Act, a quorum shall be at least three (3) members of the Board legally holding office at the time of meeting. Official business of the Board shall be conducted only at Board meetings with a quorum present. (7-1-93)

076. Fees. The fees for registration under the Act shall be the following: (3-13-02)

a. Application. ~~The~~ A non-refundable fee for application under the Act shall be one hundred dollars (\$100). ~~(3-13-02)~~(____)

~~b. A non-refundable fee of twenty-five dollars (\$25) is set for processing each examination. (3-13-02)~~

~~b. Examination.~~ The fee for the National examination is set at the current Association of State Boards of Geology (ASBOG) rate ~~for each Fundamentals examination and for each Principles and Practice examination and is non-refundable.~~ (3-13-02)(____)

~~ii. c. Reexamination.~~ The fee for reexamination of an ~~candidate~~ Applicant failing ~~his first~~ the examination shall be the same as ~~Subsection Paragraph~~ 100.076.b. of these rules. (3-13-02)(____)

c. The fee for the initial certificate shall be twenty dollars (\$20) and the fee for replacing a lost, destroyed or mutilated certificate shall be twenty dollars (\$20). (3-13-02)

d. The fee for annual renewal of registration shall be as determined each year by the Board, but shall not exceed one hundred dollars (\$100). Renewal fees are due annually by June 30. The amount of the first annual renewal fee for a Registrant may, at the discretion of the Board, be reduced appropriately on a prorated quarterly basis based upon the initial registration date in the preceding fiscal year. (7-1-93)

i. The fee for annual renewal of registration for any ~~person~~ Registrant seventy (70) years of age or older as of June 1 shall be half (1/2) the current renewal fee. (3-13-02)(____)

ii. The secretary shall notify each Registrant by mail, to the last recorded address, not later than June 1 of each year giving date of expiration of the Registrant's certificate and the amount of the renewal fee due by June 30 for the following year. (7-1-93)

iii. Failure on the part of any Registrant to renew the certificate in June shall not deprive such ~~person~~ Registrant of the right of renewal, but the fee to be paid for renewal after June 30 shall be increased as prescribed in the Act. (7-1-93)(____)

087. Certificates. Certificates of registration shall be issued to each Registrant, as prescribed by the Act, on forms adopted by the Board. Certificates shall be displayed by Registrants in their place of business. A new certificate may be issued by the Board, to replace one lost, destroyed or mutilated. Each certificate shall bear an individual number, as assigned to that particular Registrant by the Board, which number shall be included in the annual roster of Registrants prepared by the secretary. (7-1-93)

098. Seals. (7-1-93)

a. The official seal of the Board shall consist of a seal of the state of Idaho surrounded with the words "Board of Registration for Professional Geologists." (7-1-93)

b. The Board has adopted a similar seal ~~similar to that illustrated~~ for use ~~of by~~ each registrant. ~~To make use of the seal valid, registrant shall first write in ink his signature and date and then stamp over same with the seal. Either impression type or rubber stamp seal shall be valid. The seal may be a rubber stamp, crimp, or electronically generated image. Whenever the seal is applied, the Registrant's signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording are required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature.~~ SEE "APPENDIX A" AT END OF THIS CHAPTER. (7-1-93)(____)

c. The seal, signature, and date shall be placed on all final specifications, reports, information, and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature, and date shall be clearly marked as "Preliminary," "Draft," "Not for Construction," or with similar words to distinguish the document from a final document. ()

d. The seal, signature, and date shall be placed on all original documents. The application of the Registrant's seal, signature, and date shall constitute certification that the work thereon was done by him or under his supervision. Each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants involved. The supervising professional geologist shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in Paragraph 100.08.b. of these rules, distributed for informational uses such as for bidding purposes or working copies, may be issued with the Registrant's seal and a notice that the original document is on file with the Registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications, and like documents need bear the seal, signature, and date of the Registrant. ()

e. The seal and signature shall be used by Registrant only when the work being stamped was under the Registrant's supervision. ()

109. Address Change. Each Applicant and Registrant shall notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. (7-1-93)

110. Annual Report. An annual report shall be published by the Board and mailed to the governor, secretary of state, each Registrant, and to the public (upon request). The annual report shall contain, among other things: (7-1-93)

- a. Copy of the Act; (7-1-93)
- b. Rules of procedure; (7-1-93)
- c. Annual report of the Board, summarizing all transactions; (7-1-93)
- d. Excerpts or summary of annual financial report; (7-1-93)
- e. Roster of Registrants; (7-1-93)
- f. Code of ethics; and (7-1-93)()
- g. Current fee schedules; (7-1-93)()

12. Amendments. *The rules of procedure may be amended by a majority vote of Board membership at any regular or special meeting of the Board, after prior notice by publication as may be required by the provisions of Title 67, Chapter 52, Idaho Code.* (7-1-93)

101. -- 199. (RESERVED).

200. APPLICATION PROCEDURES.

01. Applications. Applications for registration shall be: (7-1-93)

a. Filed on a form or forms prescribed by the Board and accompanied by official transcripts, reference statements, and a signed code of ethics (SEE "APPENDIX B" AT END OF THIS CHAPTER); (7-1-93)()

b. Filed at the Boise office of the Board, accompanied by the required Application fee; (7-1-93)()

c. Received by the Board, if for registration by examination, not less than ~~ninety~~ forty-five (9045) days prior to the date of examination; (7-1-93)()

d. Subscribed and certified to by the Applicant under penalty of perjury as provided for by state law; and (7-1-93)

e. Applications not submitted in proper form, or which are incomplete, will not be accepted by the Board and will be returned to the Applicant by the secretary with a statement of the reason for return. (7-1-93)

02. Board Action. Upon evaluation of the Application by the Board, including receipt of statements from references, each Application will be: (7-1-93)

a. Approved and the Applicant notified in writing of such approval and the granting of registration; or (7-1-93)

b. Approved and the Applicant scheduled for examination for registration, and so notified in writing; or (7-1-93)

c. Denied with prejudice and the Applicant notified in writing by certified mail stating the reason for denial. In the event of denial of Application, the Application fee will be retained by the Board. (7-1-93)

03. Appeal. Upon notification by the Board that the Application has been denied or rejected, the Applicant, within thirty (30) days of receipt of such notice, may petition the Board for a hearing, under the provisions of Title 67, Chapter 52, Idaho Code. (7-1-93)()

04. Dates. The date of application shall be the date it is delivered in person to the Board office or, if mailed, the date shown by post office cancellation mark. Qualifying education and experience of the Applicant, for examination and registration, shall be computed from the date of application as described above. (7-1-93)

05. References. Statements from personal references; in Responsible Positions concerning the Applicant's ~~professional~~ technical ability and personal character, shall be received, as prescribed by the Act, prior to any action by the Board to approve an Application. ~~All information received from references named by the Applicant will be held in confidence by the Board. No current member of the Board shall be named as a reference by an Applicant.~~ Each statement must reflect in a positive way the technical and ethical merits of the Applicant. Applicants for the Fundamentals of Geology examination may fulfill this requirement with reference statements from geologists in Responsible Positions familiar with the ability and character of the Applicant as demonstrated in an academic setting. (7-1-93)()

06. Abandonment. In the absence of special circumstances, the Board shall consider an Application abandoned when: (7-1-93)

a. The Applicant fails to submit the certificate fee within six (6) months after the date of the letter of notification of approval of registration; or (7-1-93)

b. The Applicant fails to appear for a scheduled examination without obtaining a postponement from the Board; or (7-1-93)

c. The Applicant, after two (2) such postponements, fails to appear for examination at the scheduled time. (7-1-93)

~~07.~~ **Abandonment - Application Fees.** If, after abandonment of an Application, an Applicant wishes to reapply for registration, an entirely new Application shall be initiated and all previously paid Application fees shall be retained by the Board. (7-1-93)()

201. -- 299. (RESERVED).

300. EXAMINATIONS.

01. Examination Required. Every Applicant for registration shall take and pass an examination as prescribed by the Board except as may be specifically exempted from such examination under the terms of the Act. (7-1-93)

02. Eligibility. The following shall be considered as minimum evidence that the Applicant is qualified to take ~~an examination for registration as a professional geologist~~ the Principles and Practices of Geology Examination: (7-1-93)(____)

a. Completion of thirty (30) semester units in courses in geological science leading to a degree in the geological sciences of which at least twenty-four (24) units are in third or fourth year, and/or graduate courses; and (7-1-93)

b. Have at least seven (7) years of professional geological work which shall include either a minimum of three (3) years of professional geological work under the supervision of a registered geologist, or, wherein the Applicant has been under the direct supervision of an individual acceptable to the Board, or, wherein the Applicant has demonstrated five (5) years of progressive experience in responsible charge of geological work that is acceptable to the Board. (7-1-93)

i. Each year of undergraduate study in the geological sciences shall count as one-half (1/2) year of training up to a maximum of two (2) years, and each year of graduate study or research counts as a year of training. (7-1-93)

ii. Teaching in the geological sciences at the college level shall be credited year for year toward meeting the requirement in this category, provided that the total annual teaching experience includes six (6) semester units of third or fourth year or graduate courses. (7-1-93)

iii. Credit for undergraduate study, graduate study, and teaching individually, or in any combination thereof, shall in no case exceed a total of four (4) years toward meeting the requirement for at least seven (7) years of professional geological work as set forth above. (7-1-93)

iv. The ability of the Applicant shall have been demonstrated by his having performed work in a Responsible Position, as the term is defined in Section 010 of these rules. (7-1-93)(____)

v. The Applicant shall further be of good moral character and shall have filed a complete Application with the Board, accompanied by the required fee, as set forth ~~elsewhere~~ in Subsection 100.06 of these rules. (7-1-93)(____)

03. Authorization. (7-1-93)

a. After the Board evaluates the qualifications of an Applicant and establishes his eligibility for examination, the secretary shall notify the Applicant of eligibility and the dates of the next scheduled examinations for which his Application qualifies him. (3-13-02)

b. The secretary shall notify each Applicant in writing of the acceptance or rejection of his Application; and, if rejected, the reason for the rejection. (7-1-93)(____)

c. Not less than forty-five (45) days prior to the examination date, the candidate shall give written notice to the Board of his intent to take the examination and shall submit all applicable testing fees in full. (3-13-02)

d. Not less than thirty (30) days prior to the examination date, the secretary shall give written notice to each candidate that has previously given written notice and has paid his examination fees, of the date, time, and location(s) of the examination. (3-13-02)

e. ~~If an Applicant cancels his test appearance at least fifteen (15) days prior to the testing date, a twenty five dollar (\$25) handling fee will be withheld, and the remainder of the testing fee will be refunded. If the~~

Applicant fails to appear for the exam, or does not notify the Board at least fifteen (15) days prior to the testing date, the entire fee will be forfeited. (3-13-02)

04. Scope of Examination. The scope of the examination and the methods of procedure shall be prescribed by the Board with special reference to the Applicant's ability to supervise geologic projects as to insure the safety of life, health and property. The complete professional examination for registration as a professional geologist consists of two (2) separate written examinations. The first is the Fundamentals of Geology examination, ~~satisfactory completion of which permits certification as a Geologist-in-Training~~, covering subjects as are ordinarily given in college curricula. The second is the Principles and Practice of Geology examination which will cover the practice of geology and test the Applicant's fitness for such practice affecting the public health, safety and welfare. ~~Each examination shall be not more than eight (8) hours (one (1) day) in length. Normally, Applicants are eligible to take the Fundamentals of Geology examination upon graduation from an accredited college curriculum. Having passed the Fundamentals of Geology examination, Applicants will be assigned to take the Principles and Practice examination at a later date when qualified by experience. Applicants qualified by experience to take the Principles and Practice examination, but who have not previously passed the Fundamentals of Geology examination, may take both examinations. The Fundamentals of Geology examination given to recent college graduates need not be the same as the Fundamentals of Geology examination given to Applicants who have completed the experience requirement for registration. An oral examination, in addition to the prescribed written examination, may be required of any Applicant.~~ In addition, the examination shall meet all Americans with Disabilities Act requirements. (3-13-02)()

05. Geologist-in-Training. An Applicant may be permitted to take the Fundamentals of Geology examination prior to his completion of the years of geologic experience required for registration, as provided for in the Act. Upon such satisfactory passage of the Fundamentals of Geology examination, the Board shall issue a certificate of completion for this portion of the complete professional examination - with designation of the Applicant as a Geologist-in-Training. Such certificate of completion shall constitute a credit toward the Applicant's complete professional examination for a period not to exceed ten (10) years. The Geologist-in-Training, upon completion of the required years of geologic experience for registration, may submit a record of such experience in a complete Application to the Board and, upon approval by the Board, be assigned to take the Principles and Practice examination. ~~The possession of a Geologist In-Training certificate by an Applicant does not entitle the Applicant to practice professional geology under the appropriate provisions of the act.~~ (7-1-93)()

06. Reexamination. A candidate failing his first examination may apply for reexamination at the expiration of six (6) months without filing a new Application and shall be entitled to such reexamination on payment of the reexamination fee. A candidate who fails on reexamination must file a new Application before he can again be admitted to examination, and such new Application shall not be filed prior to one (1) year following the date of the last examination taken by the Applicant; provided, however, that it shall be unlawful for a candidate failing any examination to practice professional geology under the appropriate provisions of the Act. (3-13-02)

07. Time and Place. (7-1-93)

a. The regular written examination for registration as a professional geologist shall be conducted once or twice yearly. (3-13-02)

b. The secretary shall make all arrangements necessary to provide sufficient help to conduct examinations and to provide adequate facilities at such locations throughout the state as may be required to accommodate the number of Applicants to be examined. (7-1-93)

08. Examination Irregularities. (7-1-93)

a. Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized matter or devices during the examination is strictly prohibited. (7-1-93)

b. Only scheduled examinees, Board members, the assistant secretary and authorized examination personnel shall be admitted to the examination room. (7-1-93)

09. Grading. (7-1-93)

a. As indicated in Subsection 300.04 of these rules, the entire professional examination for registration as a professional geologist consists of two (2) separate written examinations. These examinations are referred to as the (1) Fundamentals of Geology, and (2) Principles and Practice examinations. Licensure as a professional geologist requires successful passage, as defined ~~below~~ in Paragraphs 300.09.b. and 300.09.c. of these rules, of both of these examinations. ~~(3-13-02)(_____)~~

b. Every Applicant receiving an overall grade of seventy percent (70%) or more on the Fundamentals of Geology examination shall be deemed to have passed the examination, is thereby eligible to take the Principles and Practice examination, and will receive certification as a Geologist-in-Training, provided that the required fees have been paid. (3-13-02)

c. Every Applicant receiving a grade of seventy percent (70%) or more on the Principles and Practice examination shall be deemed to have passed such examination and will be registered as a professional geologist, provided that all of the required fees have been paid. (3-13-02)

d. Every Applicant receiving a grade of less than seventy percent (70%) on either the Fundamentals of Geology examination or the Principles and Practice examination, shall be deemed to have failed such examination. Every Applicant having failed shall have his Application denied without prejudice, but shall be allowed to retake the failed examination in accordance with Subsection 300.06 of these rules. ~~(3-13-02)(_____)~~

10. Inspection of Examination. (7-1-93)

a. An Applicant who fails to obtain a passing grade in the written examination may inspect his examination papers at such times and locations as may be designated by the secretary. ~~Inspection of such examination papers shall be permitted within a thirty day (30) period after receipt of notice by the Applicant of his failure to pass the examination.~~ ~~(7-1-93)(_____)~~

b. At the time of inspection, no one other than the examinee or his attorney and a representative of the Board shall have access to such examination papers. (7-1-93)

11. Examination Appeal. (7-1-93)

a. Within ~~thirty~~ fifteen (3015) days after the date notice of the results of the examination has been mailed to him, an Applicant who was unsuccessful in the examination may appeal, by petition, to the Board for a review of his examination papers. ~~(7-1-93)(_____)~~

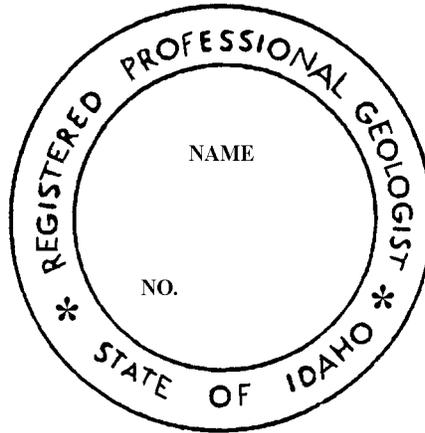
b. The petition for review shall be made in writing stating the reason for such appeal and citing the item or items against which the request is directed. (7-1-93)

c. The Board shall, upon receiving such petition for review, conduct a hearing in accordance with the applicable provisions of Title 67, Chapter 52, Idaho Code. (7-1-93)

12. Retention of Examinations. The Board shall retain examination results for at least one (1) year. (3-13-02)

301. -- 999. (RESERVED).

APPENDIX A -- REFERENCES FROM SECTION 14.01.01.100.098.b.



SEAL OF REGISTERED PROFESSIONAL GEOLOGIST

Diameter of Outer Ring: 1 1/2 Inches

Diameter of Inner Ring: 1 Inch

APPENDIX B -- REFERENCES FROM SECTION 14.01.01.200.01.a.

STATE OF IDAHO
BOARD OF REGISTRATION
FOR PROFESSIONAL GEOLOGISTS
CODE OF ETHICS

Geology is a profession, and the privilege of professional practice requires morality and responsibility, as well as professional knowledge, on the part of each practitioner. Each registered professional geologist shall be guided by the highest standards of business ethics, personal honor and professional conduct.

With regard for the geologic profession and recognizing in the Code of Ethics a set of dynamic principles to guide his services to his fellow men, and with full knowledge of the responsibility of geologists to safeguard health, safety, and public welfare, a registered geologist:

1. Brings credit, honor and dignity to the geologic profession in his dealings with clients, other geologists, and the public.
2. Acts for his clients as a faithful agent or trustee and accepts remuneration only in accordance with his stated charges for services rendered.
3. Exchanges non-confidential geologic information with other geologists, students, and the public; encourages the public understanding of geology, and ensures proper credit for geologic work.

4. Does not reveal nor seek the revelation of geologic work performed for a paying client.
5. Does not advertise or solicit geologic work assignments in a fraudulent, misleading or deceptive manner.
6. Promptly reports to the Board unethical conduct on the part of any geologist.
7. Undertakes professional service or renders expert opinion only when qualified in the specific technical areas involved.
8. Function without prejudice with respect to gender, religion, national or ethnic origin, age, sexual preference, or physical or mental disability.

Acknowledged and subscribed to:

Signature of Applicant

Adopted by the Board September 11, 1971
Amended March 17, 2007.

Sign and return this form with your completed application forms.

IDAPA 15 - IDAHO COMMISSION ON AGING

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS

DOCKET NO. 15-0102-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-5312, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 42 through 44.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kim Toryanski, Administrator at (208) 334-3833 x 228.

DATED this 26th day of July, 2007.

Kim Toryanski
Administrator
Idaho Commission on Aging
3380 Americana Terrace, Ste. 120
Boise, Idaho 83706
(208) 334-3833 x 228 phone
(208) 334-3033 fax

DOCKET NO. 15-0102-0701 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-7, July 4, 2007, pages 42 through 44.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

IDAPA 15 - OFFICE OF THE GOVERNOR

DOCKET NO. 15-0600-0701

NOTICE OF LEGISLATIVE ACTION

Transferring the Microwave Services/Public Safety Communications (Emergency Communications Commission) Function from the Department of Administration to the Idaho Military Division in the Governor's Office - House Bill No. 305

EFFECTIVE DATE: The effective date of this action is July 1, 2007.

AUTHORITY: In compliance with Sections 67-5203 and 67-5220, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-Ninth Legislature in the First Regular Session - 2007, passed House Bill 305 amending Section(s) 31-4815, 46-1203, 46-1204, and 67-5747, Idaho Code and that said bill was signed into law by Governor C.L. "Butch" Otter, Session Law Chapter 292, thereby creating the Emergency Communication Commission in the Military Division of the Governor's Office.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice and the legislative action:

House Bill 305 provides for the creation of the Idaho Emergency Communications Commission in the Military Division and transfers the microwave services/public safety communications function of the Department of Administration to the Idaho Military Division in the Governor's Office. This move provides enhanced services and coordination for emergency operations and logistics that are already being developed through federal channels with the Idaho Military. This does not eliminate current functions, but rather changes where they are located organizationally and the means by which oversight of the function is provided. Communication and related support for first responders and state and local government response in times of disaster will be improved.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of House Bill 305 by reinstating the authority of the affected chapters of rules currently indexed under IDAPA 38, Title 06, Chapters 01 and 02 (IDAPA 38.06.01 and 38.06.02) to IDAPA 15, Title 06, Chapters 01 and 02 (IDAPA 15.06.01 and 15.06.02).

Notwithstanding the provisions of Title 67, Chapter 52, Idaho Code, and further complying with the legislative intent of House Bill 305, non-substantive changes have been made to update all references and citations, statutory and otherwise, within the rules formerly under the authority of the Department of Administration and now under the authority of the Military Division. All citations and references to IDAPA 38.06.01 and 38.06.02 will be changed to the new designation as follows:

IDAPA 15.06.01, "Rules Governing the Idaho Emergency Communications Commission"

IDAPA 15.06.02, "Rules Governing the Idaho Emergency Communications Commission Grants"

All references to "Department of Administration" or "Administration" as used in the rules now say "Military Division." Pursuant to Section 67-5204, Idaho Code, all of the above listed changes will be incorporated into and published in the current Idaho Administrative Code.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice of legislative action contact Dennis Stevenson, Administrative Rules Coordinator, at (208) 332-1820.

DATED this 17th day of August, 2007.

Dennis Stevenson, Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration

P.O. Box 83720, Boise, ID 83720-0306
Phone: (208) 332-1820 / Fax: (208) 334-2395

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 39-4504, 56-1003, and 56-1005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Reportable Diseases chapter of rules is being repealed because the chapter is hard to navigate and understand for compliance of reporting diseases and conditions. The text of the rewritten chapter is published in this Bulletin under Docket 16-0210-0702.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state's general fund due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule change is being made in order to reorganize the existing chapter. Public health Districts and other stakeholders have been notified of the repeal of the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Turner at (208) 334-5870.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 25th day of July, 2007.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

IDAPA 16.02.10 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0702 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 39-4504, 56-1003, and 56-1005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Reportable Diseases chapter of rules provides for disease surveillance and control and requires specified individuals to report certain diseases and conditions to the Department or Health Districts. These reporting requirements help protect the public from diseases that can be harmful or life-threatening to others if the disease is not reported and contained.

This chapter is being rewritten and reorganized in a more user-friendly and easier-to-understand format for those required to report diseases and conditions in order to increase accuracy and timeliness of reporting. Obsolete language is being removed and the chapter is being updated to reflect changes in disease testing, control measures, reporting requirements and citations.

The chapter is organized to include the following:

1. General reporting requirements that include who is required to report, where to report, what to report, how to report, and when to report.
2. The investigation and handling of the report once it is received and any testing requirements, restrictions, or control measures necessary to prevent the spread of communicable diseases. Procedures for isolation and quarantine orders were written to align with statute.
3. Each disease or condition is listed in alphabetical order along with necessary information for the reporting, investigating, and control measures needed for each specific disease. Respiratory Syncytial Virus (RSV) infection was added as a lab-reportable disease.

The reorganization of the chapter promotes better reporting and will help protect the public through improved compliance with the rule requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact to the state's general fund due to this rulemaking is for publication costs only.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule change is being made in order to reorganize the existing chapter. Public Health Districts and other stakeholders have been notified and have provided input on the rewrite of the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Turner at (208) 334-5870.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 25th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0210-0702

IDAPA 16
TITLE 02
CHAPTER 10

16.02.10 - IDAHO REPORTABLE DISEASES

000. LEGAL AUTHORITY.

Sections 39-605, 39-1003, 39-1603, and 56-1005, Idaho Code, grant authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. Section 39-906, Idaho Code, provides for the Director to administer rules adopted by the Board of Health and Welfare. Section 39-4505(2), Idaho Code, gives the Director authority to promulgate rules regarding the identification of blood- or body fluid-transmitted viruses or diseases. Section 56-1003, Idaho Code, gives the Director the authority to adopt rules protecting the health of the people of Idaho and to recommend rules to the Board of Health and Welfare. ()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.10, "Idaho Reportable Diseases." ()

02. Scope. These rules contain the official requirements governing the reporting, control, and prevention of reportable diseases and conditions. The purpose of these rules is to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

004. DOCUMENTS INCORPORATED BY REFERENCE.

The documents referenced in Subsections 004.01 through 004.06 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available at the Idaho State Law Library or at the

Department's main office listed in Section 005 of these rules. ()

01. Guideline for Isolation Precautions in Hospitals. Siegel, J.D., et al., "Guideline for Isolation Precautions in Hospitals." Health Care Infection Control Practices Advisory Committee, Atlanta, GA: Centers for Disease Control and Prevention, 2007. ()

02. Case Definitions for Infectious Conditions Under Public Health Surveillance. Morbidity and Mortality Weekly Report, May 2, 1997, Vol. 46, No. RR-10. Centers for Disease Control and Prevention. ()

03. Human Rabies Prevention -- United States, 1999. Morbidity and Mortality Weekly Report, January 8, 1999, Vol. 48, RR-1. Centers for Disease Control and Prevention. ()

04. Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis. Morbidity and Mortality Weekly Report, May 15, 1998, Vol. 47, RR-7. Centers for Disease Control and Prevention. ()

05. Compendium of Animal Rabies Control, 2007. National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report, April 6, 2007, Vol. 58, RR-3. Centers for Disease Control and Prevention. ()

06. Standards for Cancer Registries, Volume II, Data Standards and Data Dictionary. North American Association of Central Cancer Registries, Twelfth Edition, Record Layout Version 11.2, April 2007. ()

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ()

06. Office of Epidemiology and Food Protection. The Department's Office of Epidemiology and Food Protection is located at 450 West State Street, 4th Floor, Boise, ID 83720; Phone: (208) 334-5939, Fax: (208) 332-7307; <http://www.epi.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Disclosure of any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

03. Disclosure of Privacy Information. No employee of the Department or Health District may disclose the identity of persons named in disease reports except to the extent necessary for the purpose of

administering the public health laws of this state. ()

007. -- 009. (RESERVED).

010. DEFINITIONS A THROUGH K.

For the purposes of this chapter, the following definitions apply. ()

01. Airborne Precautions. Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. ()

02. Approved Fecal Specimens. Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen must be collected and transported to the laboratory in a manner appropriate for the test to be performed. ()

03. Bite or Other Exposure to Rabies. Bite or bitten means that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" also includes contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention -- United States, 1999," incorporated in Section 004 of these rules. ()

04. Board. The Idaho State Board of Health and Welfare as described in Section 56-1005, Idaho Code. ()

05. Cancer Data Registry of Idaho (CDRI). The agency performing cancer registry services under a contractual agreement with the Department as described in Section 57-1703, Idaho Code. ()

06. Cancers. Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: ()

a. In-situ or malignant neoplasms, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. ()

b. Benign tumors of the brain, meninges, pineal gland, or pituitary gland. ()

07. Carrier. A carrier is a person who can transmit a communicable disease to another person, but may not have symptoms of the disease. ()

08. Case. ()

a. A person, who has been diagnosed as having a specific disease or condition by a physician or other health care provider, is considered a case. The diagnosis may be based on clinical judgment, on laboratory evidence, or on both criteria. Individual case definitions are described in "Case Definitions for Infectious Conditions Under Public Health Surveillance," incorporated in Section 004 of these rules. ()

b. A laboratory detection of a disease or condition as listed in Section 050 of these rules and as further outlined in Sections 100 through 949 of these rules ()

09. Cohort System. A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a day care or health care facility. ()

10. Communicable Disease. A disease which may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means which may result in infection, illness, disability, or death. ()

11. Contact. A contact is a person who has been exposed to a case or a carrier of a communicable

disease and could possibly contract the disease or infection. ()

12. Contact Precautions. Methods used to prevent contact transmission of infectious agents, as described in the “Guideline for Isolation Precautions in Hospitals,” incorporated in Section 004 of these rules. ()

13. Day Care. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child’s or children’s own home or homes as described by Section 39-1102, Idaho Code. ()

14. Department. The Idaho Department of Health and Welfare or its designee. ()

15. Director. The Director of the Idaho Department of Health and Welfare or his designee as described under Sections 56-1003 and 39-414(2), Idaho Code, and Section 950 of these rules. ()

16. Division of Public Health Administrator. A person appointed by the Director to oversee the administration of the Division of Public Health, Idaho Department of Health and Welfare, or his designee. ()

17. Droplet Precautions. Methods used to prevent droplet transmission of infectious agents, as described in the “Guideline for Isolation Precautions in Hospitals,” incorporated in Section 004 of these rules. ()

18. Exclusion. An exclusion for a food service facility means a person is prevented from working as a food employee or entering a food establishment except for those areas open to the general public as outlined in the IDAPA 16.02.19, “The Idaho Food Code.” ()

19. Extraordinary Occurrence of Illness Including Clusters. Rare diseases and unusual outbreaks of illness which may be a risk to the public are considered an extraordinary occurrence of illness. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, illnesses related to environmental contamination by infectious or toxic agents, unusual syndromes, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. ()

20. Foodborne Disease Outbreak. An outbreak is when two (2) or more persons experience a similar illness after ingesting a common food. ()

21. Food Employee. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces as defined in IDAPA 16.02.19, “The Idaho Food Code.” ()

22. Health Care Facility. An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. This definition includes hospitals, intermediate care facilities, residential care and assisted living facilities. ()

23. Health Care Provider. A person who has direct or supervisory responsibility for the delivery of health care or medical services. This includes: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. ()

24. Health District. Any one (1) of the seven (7) public health districts as established by Section 39-409, Idaho Code, and described in Section 030 of these rules. ()

25. Health District Director. Any one (1) of the public health districts’ directors appointed by the Health District’s Board as described in Section 39-413, Idaho Code, or his designee. ()

26. Idaho Food Code. Idaho Administrative Code that governs food safety, IDAPA 16.02.19, “Food Safety and Sanitation Standards for Food Establishments,” also known as “The Idaho Food Code.” These rules may be found at: <http://adm.idaho.gov/adminrules/rules/idapa16/0219.pdf>. ()

27. Isolation. The separation of a person known or suspected to be infected with an infectious agent, or contaminated from chemical or biological agents, from other persons to such places, under such conditions, and for

such time as will prevent transmission of the infectious agent or further contamination. The place of isolation will be designated by the Director under Section 56-1003(7), Idaho Code, and Section 065 of these rules. ()

011. DEFINITIONS L THROUGH Z.

For the purposes of this chapter, the following definitions apply. ()

01. Laboratory Director. A person who is directly responsible for the operation of a licensed laboratory or his designee. ()

02. Laboratory. A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Laboratory may also refer to the Idaho State Public Health Laboratory, and to the United States Centers for Disease Control and Prevention. ()

03. Livestock. Livestock includes cattle, swine, horses, mules, asses, native and non-native ungulates, and other animals determined by the Department. ()

04. Medical Record. Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access will be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute are not reviewable. ()

05. Outbreak. An outbreak is an unusual rise in the incidence of a disease. An outbreak may consist of a single case. ()

06. Personal Care. The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. ()

07. Physician. A person legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho as defined in Section 54-1803, Idaho Code. ()

08. Quarantine. The restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists. The place of quarantine will be designated by the Director or Health District Board. ()

09. Rabies Post-Exposure Prophylaxis (rPEP). The administration of a rabies vaccine series with or without the antirabies immune globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention--United States, 1999," incorporated in Section 004 of these rules. ()

10. Rabies-Susceptible Animal. Any animal capable of being infected with the rabies virus. ()

11. Residential Care Facility. A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. Any restriction for this type of facility is included under restrictions for a health care facility. ()

12. Restriction. ()

a. To limit the activities of a person to reduce the risk of transmitting a communicable disease. Activities of individuals are restricted or limited to reduce the risk of disease transmission until such time that they are no longer considered a health risk to others. ()

b. A food employee who is restricted must not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles. A restricted employee may still work at a food establishment as outlined in the IDAPA 16.02.19, "The Idaho Food Code."

()

13. Restrictable Disease. A restrictable disease is a communicable disease, which if left unrestricted, may have serious consequences to the public's health. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. ()

14. Severe Reaction to Any Immunization. Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. ()

15. Significant Exposure to Blood or Body Fluids. Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis," incorporated in Section 004 of these rules. ()

16. Standard Precautions. Methods used to prevent transmission of all infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. ()

17. State Epidemiologist. A person employed by the Department to serve as a statewide epidemiologist or his designee. ()

18. Suspected Case. A person diagnosed with or thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 050 of these rules. ()

19. Vaccination of an Animal Against Rabies. Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Control, 2007," incorporated in Section 004 of these rules. ()

20. Veterinarian. Any licensed veterinarian as defined in Section 54-2103, Idaho Code. ()

21. Waterborne Outbreak. An outbreak is when two (2) or more persons experience a similar illness after ingesting water from a common supply and an epidemiological analysis implicates the water as the source of the illness. ()

22. Working Day. A working day is from 8 a.m. to 5 p.m., Monday through Friday, excluding state holidays. ()

012. -- 019. (RESERVED).

020. PERSONS REQUIRED TO REPORT REPORTABLE DISEASES, CONDITIONS, AND SCHOOL CLOSURES.

01. Physician. A licensed physician who diagnoses, treats, or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or Health District as described in these rules. The physician is also responsible for reporting diseases and conditions diagnosed or treated by physician assistants, nurse practitioners, or others under the physician's supervision. ()

02. Hospital or Health Care Facility Administrator. The hospital or health care facility administrator must report all persons who are diagnosed, treated, or receive care for a reportable disease or condition in his facility unless the attending physician has reported the disease or condition. ()

03. Laboratory Director. The laboratory director must report to the Department or Health District the identification of, or laboratory findings suggestive of, the presence of the organisms, diseases, or conditions listed in Section 050 of these rules. ()

04. School Administrator. A school administrator must report diseases and conditions to the Department or Health District as indicated in Section 050 of these rules. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. ()

05. Persons in Charge of Food Establishments. If the person in charge of the eating or drinking establishment has reason to suspect that any employee has a disease listed in Section 050 of these rules that is in a communicable form, he must immediately notify the Department or Health District and obtain guidance on proper actions needed to protect the public. ()

06. Others Required to Report Reportable Diseases. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse practitioners, registered nurses, school health nurses, infection surveillance staff, public health officials, and coroners. ()

021. ACCESS TO MEDICAL RECORDS.

No physician, hospital administrative person, or patient may deny the Department, Health Districts, or the Board access to medical records in discharge of their duties in implementing the reportable disease rules. ()

022. PENALTY PROVISIONS.

These rules may be enforced under the civil and criminal penalties described in Sections 39-108, 39-109, 39-607, 39-1006, 39-1606, and 56-1008, Idaho Code, and other applicable statutes and rules. Penalties may include fines and imprisonment as specified in Idaho Code. ()

023. DELEGATION OF POWERS AND DUTIES.

The Director has the authority to delegate to the Health Districts any of the powers and duties created by these rules under Section 39-414(2), Idaho Code. Any delegation authority will be in writing and signed by the both the Director and the Health District Board. ()

024. -- 029. (RESERVED).

030. WHERE TO REPORT REPORTABLE DISEASES AND CONDITIONS.

Subsections 030.01 through 030.09 of this rule provide where information for reporting of suspected, identified, and diagnosed diseases and conditions are to be reported. The diseases and conditions in Sections 100 through 949 of these rules are reportable to the agencies listed in Subsections 030.01 through 030.09 of this rule. ()

01. Department of Health and Welfare, Office of Epidemiology and Food Protection. ()

a. Main Office Address: 450 West State Street, 4th Floor, Boise, ID 83720. ()

b. Phone: (208) 334-5939 and FAX: (208) 332-7307. ()

02. Health District I - Panhandle Health District. The Panhandle Health District covers the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. ()

a. Main Office Address: 8500 N. Atlas Road, Hayden, ID 83835. ()

b. Phone: (208) 771-0271 and FAX: 1-866-716-2599 Toll Free. ()

03. Health District II - North Central District Health Department. The North Central District Health Department covers the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. ()

a. Main Office Address: 215 10th Street, Lewiston, ID 83501. ()

b. Phone: (208) 799-3100 and FAX: (208) 799-0349. ()

04. Health District III - Southwest District Health Department. The Southwest District Health

Department covers the counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. ()

a. Main Office Address: 920 Main Street, Caldwell, ID 83605. ()

b. Phone: (208) 455-5362 and FAX: (208) 455-5350. ()

05. Health District IV - Central District Health Department. The Central District Health Department covers the counties of Ada, Boise, Elmore and Valley. ()

a. Main Office Address: 707 N. Armstrong Place, Boise, ID 83704. ()

b. Phone: (208) 327-8625 and FAX: (208) 327-7100. ()

06. Health District V - South Central District Health Department. The South Central District Health Department covers the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. ()

a. Main Office Address: 1020 Washington Street N., Twin Falls, ID 83301. ()

b. Phone: (208) 737-5936 or (208) 737-5974 and FAX: (208) 736-3009. ()

07. Health District VI - Southeastern District Health Department. The Southeastern District Health Department covers the counties of Bannock, Bear Lake, Bingham, Butte, Caribou, Franklin, Oneida, and Power. ()

a. Main Office Address: 1901 Alvin Ricken Drive, Pocatello, ID 83201. ()

b. Phone: (208) 233-9080 and FAX: (208) 233-1916. ()

08. Health District VII - Eastern Idaho Public Health Department. The Eastern Idaho Public Health Department covers the counties of Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton. ()

a. Main Office Address: 254 E Street, Idaho Falls, ID 83402. ()

b. Phone: (208) 522-0310 and FAX: (208) 525-7063. ()

09. Cancer Data Registry of Idaho (CDRI). ()

a. Main Office Address: 615 N. 7th Street, P.O. Box 1278, Boise, ID 83701. ()

b. Phone: (208) 338-5100. ()

10. Inter-Agency Notification. The Health District must notify the Department of reportable diseases and conditions as provided in Section 050 of these rules. ()

a. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of a reportable disease or condition when required in Sections 100 through 949 of these rules. ()

b. The Department and the Health District will exchange reported information no later than weekly of all other cases of reportable diseases and conditions as specified under each disease or condition. ()

c. The Department will notify the Idaho Department of Agriculture of any identified or suspected source of an animal related disease when required in Sections 100 through 949 of these rules. ()

031. -- 039. (RESERVED).

040. REPORT CONTENTS AND METHOD OF REPORTING.

- 01. Report Contents.** Each report of a reportable disease or condition must include: ()
- a.** The identity and address of the attending licensed physician or the person reporting; ()
 - b.** The diagnosed or suspected disease or condition; ()
 - c.** The name, current address, telephone number, birth date, age, race, ethnicity, and sex of the individual with the disease or other identifier from whom the specimen was obtained; ()
 - d.** The date of onset of the disease or the date the test results were received; and ()
 - e.** In addition, laboratory directors must report the identity of the organism or other significant test result. ()

02. How To Report. A report of a case or suspected case may be made to the Department or Health District by telephone, mail, fax, or through electronic-disease reporting systems as listed in Sections 005 and 030 of these rules. ()

03. After Hours Notification. To report a disease after hours use the State Communications public health paging system (State Comm) at (800) 632-8000. A public health official will be paged immediately to assist you. ()

041. -- 049. (RESERVED).

050. REPORTABLE OR RESTRICTABLE DISEASES, CONDITIONS AND REPORTING REQUIREMENTS.

Reportable diseases and conditions must be reported to the Department or Health District by those required under Section 020 of these rules. The table below identifies the reportable and restrictable diseases and conditions, the timeframe for reporting, and the person or facility required to report. ()

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS				
TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Acquired Immune Deficiency Syndrome (AIDS), (including CD-4 lymphocyte counts <200 cells/mm ³ blood or ≤ 14%)	100	Within 3 working days	None	
Amebiasis	110	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Anthrax (<i>bacillus anthracis</i>)	120	Immediately	None	
Biotinidase Deficiency	130	Within 1 working day (in newborn screening)	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS				
TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Botulism	140	Immediately	None	
Brucellosis (<i>Brucella</i> species)	150	Within 1 working day	None	
Campylobacteriosis (<i>Campylobacter</i> species)	160	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Cancer	170	Report to Cancer Data Registry of Idaho within 180 days of diagnosis or recurrence (including suspected cases)	None	
Chancroid	180	Within 3 working days	None	
<i>Chlamydia trachomatis</i> Infections	190	Within 3 working days	HC	
Cholera (<i>Vibrio cholerae</i>)	200	Within 1 working day	FS, HC, DC	Food Service Facility
Congenital Hypothyroidism	210	Within 1 working day (in newborn screening)	None	
Conjunctivitis	080, 090	No reporting required	DC, S	
Cryptosporidiosis (<i>Cryptosporidium</i> species)	220	Within 3 working days	FS, HC, DC	
Cutaneous Fungal Infections	080, 090	No reporting required	DC, S	
Diarrhea (until common communicable diseases have been ruled out)	085	No reporting required	FS	
Diphtheria (<i>Corynebacterium diphtheriae</i>)	230	Immediately	DC, FS, HC, S	Day Care Facility School
Encephalitis, Viral or Aseptic	240	Within 3 working days	None	
<i>Escherichia coli</i> O157:H7 and other Shiga-Toxin Producing <i>E. coli</i> (STEC)	250	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility School
Extraordinary Occurrence of Illness, including Clusters	260	Within 1 working day	None	
Fever	085	No reporting required	FS	
Food Poisoning, Foodborne Illness, and Waterborne Illnesses	270	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS				
TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Galactosemia	280	Within 1 working day (in newborn screening)	None	
Giardiasis (<i>Giardia lamblia</i>)	290	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
<i>Haemophilus influenzae</i> Invasive Disease	300	Within 1 working day	DC, S	Day Care Facility School
Hantavirus Pulmonary Syndrome	310	Within 1 working day	None	
Hemolytic-Uremic Syndrome (HUS)	320	Within 1 working day	None	
Hepatitis A	330	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Hepatitis B	340	Within 1 working day	None	
Hepatitis C	350	Within 3 working days	None	
Human Immunodeficiency Virus (HIV)	360	Within 3 working days	None	
Human T-Lymphotropic Virus	370	Within 3 working days	None	
Jaundice	085	No reporting required	FS	
Lead Levels of Ten Micrograms or more per Deciliter of Whole Blood (ug/dL)	380	Within 3 working days	None	
Legionellosis	390	Within 3 working days	None	
Leprosy (Hansen's Disease)	400	Within 3 working days	None	
Leptospirosis	410	Within 3 working days	None	
Listeriosis (<i>Listeria</i> species)	420	Within 3 working days	None	
Lyme Disease	430	Within 3 working days	None	
Malaria (<i>Plasmodium</i> species)	440	Within 3 working days	None	
Maple Syrup Urine Disease	450	Within 1 working day (in newborn screening)	None	
Measles (Rubeola)	460	Within 1 working day	DC, HC, S	Day Care Facility School
Meningitis, Viral or Aseptic	470	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Mumps	480	Within 3 working days	DC, S, HC	Day Care Facility School
Myocarditis, Viral	490	Within 3 working days	None	
<i>Neisseria gonorrhoeae</i> Infections	500	Within 3 working days		
<i>Neisseria meningitidis</i> Invasive Disease	510	Within 1 working day	DC, HC, S	Day Care Facility School
Norovirus	520	Within 1 working day	DC, FS, HC, S	
Pediculosis	080, 090	No reporting required	DC, S	
Pertussis (<i>Bordetella pertussis</i>)	530	Within 1 working day	DC, HC, S	Day Care Facility School
Phenylketonuria (PKU)	540	Within 1 working day (in newborn screening)	None	
Plague (<i>Yersinia pestis</i>)	550	Immediately	HC, S	Day Care Facility School
Pneumococcal Invasive Disease in Children less than Eighteen (18) Years of Age (<i>Streptococcus pneumoniae</i>)	560	Within 3 working days	DC, S	Day Care Facility School
Pneumocystis Pneumonia (PCP)	570	Within 3 working days		
Poliomyelitis	580	Within 1 working day	DC	Day Care Facility School
Psittacosis	590	Within 3 working days		
Q Fever	600	Within 1 working day		
Rabies -- Human and Animal	610	Immediately (human), Within 1 working day (animal)		
Relapsing Fever, Tick-borne and Louse-borne	620	Within 3 working days		
Respiratory Syncytial Virus (RSV)	630	Within 1 working day		Note: Only Labs need to report.
Reye Syndrome	640	Within 3 working days		

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS				
TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Rocky Mountain Spotted Fever	650	Within 3 working days		
Rubella (including Congenital Rubella Syndrome)	660	Within 1 working day	DC, HC, S	Day Care Facility School
Salmonellosis (including Typhoid Fever) (<i>Salmonella</i> species)	670	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Scabies	080, 090	No reporting required	DC, S	
Severe Acute Respiratory Syndrome (SARS)	680	Within 1 working day	DC, S	Day Care Facility School
Severe Reaction to Any Immunization	690	Within 1 working day		
Shigellosis (<i>Shigella</i> species)	700	Within 1 working day	DC, FS, HC, S	Day Care Facility Food Service Facility School
Smallpox	710	Immediately	DC, HC, S	Day Care Facility School
Sore Throat with Fever	085	No reporting required	FS	
Staphylococcal Infections	080, 090	No reporting required	DC, S	
Streptococcal Pharyngeal Infections	080, 090	No reporting required	DC, S	
<i>Streptococcus pyogenes</i> (Group A Strep), Invasive or Resulting in Rheumatic Fever	720	Within 3 working days	DC, HC, S	Day Care Facility School
Syphilis	730	Within 3 working days	None	
Taeniasis	085	No reporting required	FS	
Tetanus	740	Within 3 working days	None	
Toxic Shock Syndrome	750	Within 3 working days	None	
Transmissible Spongiform Encephalopathies (TSE), including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD)	760	Within 3 working days	None	
Trichinosis	770	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service Facility HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Tuberculosis (<i>Mycobacterium tuberculosis</i>)	780	Within 3 working days	DC, FS, HC, S	Day Care Facility School Food Service Facility
Tularemia (<i>Francisella tularensis</i>)	790	Immediately; Identification of <i>Francisella tularensis</i> - within 1 working day	None	
Uncovered and Open or Draining Skin Lesions with Pus, such as a Boil or Open Wound	085	No reporting required	FS	
Varicella (chickenpox)	080, 090	No reporting required	DC, S	
Vomiting (until noninfectious cause is identified)	085	No reporting required	FS	
West Nile Virus (WNV)	800	Within 3 working days	None	
Yersiniosis (<i>Yersinia enterocolitica</i> and <i>Yersinia pseudotuberculosis</i>)	810	Within 3 working days; Identification of <i>Yersinia pestis</i> - immediately	FS	

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051. -- 059. (RESERVED).

060. TESTING FOR CERTAIN REPORTABLE DISEASES WHEN INFORMED CONSENT IS NOT POSSIBLE.

Under Section 39-4504, Idaho Code, a licensed physician may order blood or body fluid tests for hepatitis viruses, malaria, syphilis, or the human immunodeficiency virus (HIV) when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services.

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061. -- 064. (RESERVED).

065. INVESTIGATION AND CONTROL OF REPORTABLE DISEASES.

01. Responsibility and Authority. The Department will use all reasonable means to confirm in a timely manner any case or suspected case of a reportable disease or condition, and will determine, when possible, all sources of infection and the extent of exposure. Investigations may be made when the Division of Public Health Administrator, Health District Director, or state epidemiologist determines a disease to be of public health significance.

()

a. Every licensed physician or other health care provider attending a person with a reportable disease or condition must report the case or suspected case, as described in Section 050 of these rules. He must instruct the

person on applicable control measures as outlined in Sections 100 through 949 of these rules and cooperate with the Department in the investigation and control of the disease or condition. ()

b. Any person providing emergency or medical services who believes he has experienced a significant exposure to blood or bodily fluids as defined in Subsection 011.15 of these rules may report said exposure as soon as possible or within fourteen (14) days of the occurrence to the Department on a significant exposure report form. When, in the state epidemiologist's judgment, a significant exposure has occurred, the Department will inform the exposed individual that he may have been exposed to the HIV or HBV virus, or that there is no information available based on the Department's current HIV or HBV registry and will recommend appropriate counseling and testing for the exposed individual. ()

02. Inspection - Right of Entry. The Department may enter private or public property for the purpose of administering or enforcing the provisions of these rules under the authority and constraints granted by Section 56-1009, Idaho Code. ()

03. Inviolability of Placards. If it is necessary to use placards, it is unlawful for any person to interfere with, conceal, mutilate or tear down any notices or placards on any house, building or premises placed by the Department. Such placards can only be removed by the health official. ()

04. Verification of Diagnosis. Cases of diseases or conditions reported to the Department will be treated as such upon the statement of the attending licensed physician or other health care provider, unless there is reason to doubt the diagnosis. Final decision as to the diagnosis for administrative purposes will rest with the Division of Public Health Administrator or Health District Director. ()

05. Closure of Schools and Places of Public Assembly. The Director may order the closing of any public, parochial, or private school, or other place of public assembly when, in his opinion, such closing is necessary to protect public health. The school or other place of public assembly must not reopen until permitted by the health official. ()

06. Transportation of Patients With Communicable Disease. No person with a reportable disease in a communicable form, who is under orders of isolation, nor any contact who is restricted under an order of quarantine, may travel or be transported from one place to another without the permission of the Division of Public Health Administrator or Health District Director. An exception may be made in instances where the patient is to be admitted directly to a hospital or treatment facility, provided adequate precautions are taken to prevent dissemination of the disease by the patient enroute to the hospital or treatment facility. ()

07. Order to Report for Examination. The Division of Public Health Administrator or Health District Director may issue an order to report for examination. An order to report for examination must be served by delivering one (1) copy to the person to be examined, one (1) copy to the prosecuting attorney of the county or city in which the person resides, and filing one (1) copy bearing the notation of time and place of service and the signature of the person serving the notice with the issuing health authority. ()

08. Order for Isolation. The Division of Public Health Administrator or Health District Director may issue and withdraw an order for isolation if he determines that it is necessary to protect the public from a significant risk of the spread of infectious or communicable diseases or from contamination from chemical or biological agents. Orders for isolation must be executed as described in Subsections 065.08.a. and 065.08.b. of this rule. ()

- a.** The order for isolation must be executed as follows: ()
 - i.** One (1) copy to the individual being isolated; ()
 - ii.** One (1) copy to the attending licensed physician; ()
 - iii.** One (1) copy to the prosecuting attorney of the county or city in which the person resides; and ()
 - iv.** One (1) copy to be filed in the office of the issuing officer along with an affidavit of service signed ()

by the person who served the order. ()

b. The issuing officer will make an assessment and identify the least restrictive means of isolation that effectively protects unexposed and susceptible individuals from the public health threat. Orders of isolation require the individual to isolate himself at a certain place or places, and may require specific precautions to be taken when outside a designated place of isolation as the issuing officer deems appropriate and necessary. If the place of isolation is other than the individual's place of residence, a copy of the order must be provided to the person in charge of that place. ()

c. The Division of Public Health Administrator or Health District Director will withdraw an order for isolation once it is determined there is no longer a significant threat to the public's health posed by the individual under order for isolation. ()

09. Order for Quarantine. The Division of Public Health Administrator or Health District Director is empowered whenever a case of any communicable disease occurs in any household or other place within his jurisdiction and in his opinion it is necessary that persons residing within must be kept from contact with the public, to declare the house, building, apartment, or room a place of quarantine and to require that no persons will leave or enter during the period of quarantine except with specific permission of the issuing officer. Orders for quarantine must be executed as described in Subsections 065.09.a. and 065.09.b. of this rule. ()

a. The order for quarantine must be executed as follows: ()

i. One (1) copy to any individual being quarantined; ()

ii. One (1) copy to the attending licensed physician; ()

iii. One (1) copy to the prosecuting attorney of the county or city in which the quarantine occurs; ()

iv. One (1) copy to be filed in the office of the issuing officer along with an affidavit of service signed by the person who served the order; and ()

v. One (1) copy to the person in charge or owner of the place of quarantine. ()

b. The issuing officer will make an assessment and identify the least restrictive timeframe of quarantine that effectively protects unexposed and susceptible individuals to the infection of public health threat. ()

c. The Division of Public Health Administrator or Health District Director will withdraw an order for quarantine when he determines there is no longer a significant threat to the public's health posed by the individual or premises under the order for quarantine. ()

11. Sexually Transmitted Infection Contacts. Any person infected with a sexually transmitted infection (venereal disease) as defined in Section 39-601, Idaho Code, is required to provide the name, address, and telephone number(s) of all persons from whom the disease may have been acquired and to whom the disease may have been transmitted, when such information is requested by the Department or Health District. ()

066. -- 069. (RESERVED).

070. SPECIAL DISEASE INVESTIGATIONS.

The Department may conduct special investigations of diseases or conditions to identify causes and means of prevention. All records of interviews, reports, studies, and statements obtained by or furnished to the Department or other authorized agency are confidential for the identity of all persons involved. Release of information to the Department as required or permitted by these rules does not subject any party furnishing such information to an action for damages as provided under IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

071. -- 079. (RESERVED).

080. DAY CARE FACILITY - REPORTING AND CONTROL MEASURES.

01. Readily Transmissible Diseases. Day care reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in day care facilities as listed under Section 050 of these rules. ()

02. Restrictable Disease - Employee. A person who is diagnosed to have a day care restrictable disease must not work in any occupation in which there is direct contact with children in a day care facility, as long as the disease is in a communicable form. ()

03. Restrictable Disease - Child. A child who is diagnosed to have a day care restrictable disease must not attend a day care facility as long as the disease is in a communicable form. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. ()

04. Prevention of the Transmission of Disease. When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in a day care facility if approval is obtained from the Department or Health District. ()

081. -- 084. (RESERVED).

085. FOOD SERVICE FACILITY - REPORTING AND CONTROL MEASURES.

01. Food or Beverage Transmitted Disease in a Communicable Form. Under Section 050 of these rules, a person who is diagnosed to have one (1) or more of the diseases or conditions listed as restrictable for food establishments must not work as a food employee as long as the disease is in a communicable form. ()

02. Food Employee Health Examination. The Division of Public Health Administrator may require a food employee to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food employee is afflicted with a disease listed in Section 050 of these rules as restrictable for food establishments, and that disease is in a communicable form. ()

03. Notification of Disease in a Communicable Form. If the person in charge of an eating or drinking establishment has reason to suspect that any employee has a disease listed in Section 050 of these rules as restrictable for food establishments, and that disease is in a communicable form, the person in charge must immediately notify the Department or Health District and obtain guidance on proper actions needed to protect the public. ()

086. -- 089. (RESERVED).

090. SCHOOL - REPORTING AND CONTROL MEASURES.

01. Restrictable Diseases. School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools as listed under Section 050 of these rules. ()

02. Restrictions - Work. Any person who is diagnosed to have a school restrictable disease must not work in any occupation that involves direct contact with students in a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

03. Restrictions - Attendance. Any person who is diagnosed with or reasonably suspected to have a school restrictable disease must not attend a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

04. Determination Disease is No Longer Communicable. A licensed physician, public health nurse, school nurse or other person designated by the Department or Health District may determine when a person with a school restrictable disease can no longer transmit the disease to others. ()

05. School Closure. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. ()

091. -- 099. (RESERVED).

REPORTABLE DISEASES AND CONTROL MEASURES
(SECTIONS 100 - 949)

100. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

01. Reporting Requirements. Each case of acquired immune deficiency syndrome (AIDS) that meets the current case definition established by the Centers for Disease Control and Prevention must be reported to the Department or Health District within three (3) working days of identification. Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection or CD-4 lymphocyte counts of less than two hundred (200) per cubic millimeter (mm³) of blood or less than or equal to fourteen percent (14%) must be reported. ()

02. Investigation. Each reported case of AIDS must be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. ()

101. -- 109. (RESERVED).

110. AMEBIASIS.

01. Reporting Requirements. Each case of amebiasis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of amebiasis must be investigated to determine whether the person with amebiasis is employed as a food employee, provides personal care at a health care or day care facility, or is a child attending a day care facility. ()

03. Restrictions - Day Care Facility. A person excreting *Entamoeba histolytica* must not attend a day care facility while fecally incontinent and must not work in any occupation in which they provide personal care to children in a day care facility, unless an exemption is made by the Department or Health District. ()

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or ()

b. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ()

04. Restrictions - Food Service Facility. A symptomatic person excreting *Entamoeba histolytica* is restricted from working as a food employee. ()

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or ()

b. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ()

05. Restrictions - Health Care Facility. A person excreting *Entamoeba histolytica* must not work in any occupation in which they provide personal care to persons confined to a health care facility, unless an exemption is made by the Department or Health District. ()

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or ()

b. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ()

06. Restrictions - Household Contacts. A member of the household in which there is a case of amebiasis may not work in any occupations in Subsections 110.03 through 110.05 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and have at least one (1) approved fecal specimen found to be negative for ova and parasites on examination by a licensed laboratory prior to being approved for work. ()

111. -- 119. (RESERVED).

120. ANTHRAX.

01. Reporting Requirements. Each case or suspected case of anthrax in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation. Each reported case of anthrax must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify the source of infection. ()

03. Handling of Report. The Department and Health District will exchange reported information within one (1) working day of any reported case of anthrax. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of anthrax. ()

121. -- 129. (RESERVED).

130. BIOTINIDASE DEFICIENCY.

Each case or suspected case of biotinidase deficiency must be reported to the Department or Health District within one (1) working day of identification. ()

131. -- 139. (RESERVED).

140. BOTULISM.

01. Reporting Requirements. Each case or suspected case of botulism must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation. Each reported case of botulism must be investigated to confirm the diagnosis, determine if other persons have been exposed to *botulinum* toxins, and identify the source of the disease. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of botulism. ()

141. -- 149. (RESERVED).

150. BRUCELLOSIS.

01. Reporting Requirements. Each case of brucellosis must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of brucellosis must be investigated to confirm the diagnosis and identify the source of the disease. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day of any reported case of brucellosis. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of the disease. ()

151. -- 159. (RESERVED).

160. CAMPYLOBACTERIOSIS.

01. Reporting Requirements. Each case of campylobacteriosis must be reported to Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of campylobacteriosis must be investigated to determine the extent of the outbreak and identify the source of the disease. ()

03. Restrictions - Day Care Facility. A person excreting *Campylobacter* must not provide personal care in a day care and an fecally incontinent person excreting *Campylobacter* must not attend a day care facility unless an exemption is obtained from the Department or Health District. Before returning to work or day care, the person must provide at least two (2) approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. ()

04. Restrictions - Food Service Facility. A symptomatic person excreting *Campylobacter* is restricted from working as a food employee. ()

05. Restrictions - Health Care Facility. A person excreting *Campylobacter* must not provide personal care to persons in a health care facility unless an exemption is obtained from the Department or Health District. Before returning to work, the person must provide at least two (2) approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. ()

161. -- 169. (RESERVED).

170. CANCER.

01. Reporting Requirements. Cancer is to be reported within one hundred and eighty (180) days of its diagnosis or recurrence to the Cancer Data Registry of Idaho (CDRI). ()

02. Handling of Report. All data reported to the CDRI is available for use in aggregate form for epidemiologic analysis of the incidence, prevalence, survival, and risk factors associated with Idaho's cancer experience. Disclosure of confidential information for research projects must comply with the CDRI's confidentiality policies as well as IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

03. Cancers Designated as Reportable. Cancers that are designated reportable to the CDRI include the following as described in Section 57-1703, Idaho Code. ()

a. Each in-situ or malignant neoplasm diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy, or suggested by cytology is reportable, excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. ()

b. Benign neoplasms are reportable if occurring in the central nervous system including the brain, meninges, pineal gland, or pituitary gland. ()

c. The use of the words "apparently," "appears to," "comparable with," "compatible with," "consistent with," "favor," "malignant appearing," "most likely," "presumed," "probable," "suspected," "suspicious," or "typical" is sufficient to make a case reportable. ()

d. The use of the words "questionable," "possible," "suggests," "equivocal," "approaching," "rule out," "potentially malignant," or "worrisome," is not sufficient to make a case reportable. ()

04 Report Content. Each reported case must include the patient's name, demographic information, date of diagnosis, primary site, metastatic sites, histology, stage of disease, initial treatments, subsequent treatment, and survival time. Reporting of cases must adhere to cancer reporting standards as provided in "Standards for Cancer Registries, Vol. II." as incorporated by reference in Section 004 of these rules. ()

05. Reported By Whom. Every private, federal, or military hospital, out-patient surgery center, radiation treatment center, pathology laboratory, or physician providing a diagnosis or treatment related to a reportable cancer is responsible for reporting or furnishing cancer-related data, including annual follow-up, to CDRI. ()

171. -- 179. (RESERVED).

180. CHANCROID.

01. Reporting Requirements. Each case of chancroid must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation and Notification of Contacts. Each reported case of chancroid must be investigated to determine the source and extent of contact follow-up that is required. Each person diagnosed with chancroid is required to inform his sexual contacts that they have been exposed to a sexually transmitted infection, or to provide specific information to health officials in order to locate these contacts. The contacts must be notified of the disease in order to be examined and treated according to Section 39-605, Idaho Code. ()

181. -- 189. (RESERVED).

190. CHLAMYDIA TRACHOMATIS.

01. Reporting Requirements. Each case of *Chlamydia trachomatis* infection must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of *Chlamydia trachomatis* pelvic inflammatory disease must be investigated to determine the extent of contact follow-up that is required. ()

03. Prophylaxis of Newborns. Prophylaxis against *Chlamydia trachomatis* ophthalmia neonatorum is required in IDAPA 16.02.12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants." ()

04. Restrictions - Health Care Facility. Cases of *Chlamydia trachomatis* ophthalmia neonatorum in a health care facility will be placed under contact isolations. ()

191. -- 199. (RESERVED).

200. CHOLERA.

01. Reporting Requirements. Each case or suspected case of cholera must be reported to the Department or Health District within one (1) working day. ()

02. Investigation. Each reported case of cholera must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify contacts, carriers, and the source of the infection. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of cholera. ()

04. Restrictions - Day Care Facility. A person excreting *Vibrio cholerae* must not attend a day care facility while fecally incontinent and must not work in any occupation that provides personal care to children in a day care facility while the disease is in a communicable form, unless an exemption is obtained from the Department or Health District. ()

05. Restrictions - Food Service Facility. A symptomatic person excreting *Vibrio cholerae* is restricted from working as a food employee under IDAPA 16.02.19, "The Idaho Food Code." ()

06. Restrictions - Health Care Facility. A person excreting *Vibrio cholerae* must not work in any

occupation that provides personal care to persons confined in a health care or residential facility while in a communicable form, unless an exemption is obtained from the Department or Health District. A person in a health care facility who has cholera must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

07. Restrictions - Household Contacts. A member of the household in which there is a case of cholera may not work in any occupations listed in Subsections 200.04 through 200.06 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and provide at least one (1) approved fecal specimen found to be negative on a culture by a licensed laboratory prior to being approved for work. ()

201. -- 209. (RESERVED).

210. CONGENITAL HYPOTHYROIDISM.

Each case or suspected case of congenital hypothyroidism must be reported to the Department or Health District within one (1) working day of identification. ()

211. -- 219. (RESERVED).

220. CRYPTOSPORIDIOSIS.

01. Reporting Requirements. Each case of cryptosporidiosis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case must be investigated to determine the extent of the outbreak and identify the source of the infection. ()

03. Restrictions - Day Care Facility. A fecally incontinent person excreting *Cryptosporidium parvum* must not attend a day care facility. A person excreting *Cryptosporidium parvum* must not provide personal care in a day care facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: ()

a. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or ()

b. Diarrhea has ceased for twenty-four (24) hours. ()

04. Restrictions - Food Service Facility. A symptomatic person excreting *Cryptosporidium parvum* is restricted from working as a food employee. ()

05. Restrictions - Health Care Facility. A person excreting *Cryptosporidium parvum* must not provide personal care in a custodial institution, or health care facility while fecally incontinent, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: ()

a. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or ()

b. Diarrhea has ceased for twenty-four (24) hours. ()

221. -- 229. (RESERVED).

230. DIPHTHERIA.

01. Reporting Requirements. Each case or suspected case of diphtheria must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation and Response. Each reported case of diphtheria must be investigated to determine if the illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, the extent of the outbreak, and identify contacts, carriers, and the source of the infection. Contacts of a person with toxigenic diphtheria will be offered

immunization against diphtheria. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of diphtheria. ()

04. Restrictions - Health Care Facility. ()

a. A person with oropharyngeal toxigenic diphtheria in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. The Department or Health District may withdraw this isolation requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. ()

b. A person with cutaneous toxigenic diphtheria must be placed under contact precautions. The Department of Health District may withdraw these precautions after two (2) cultures from the wound fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. ()

05. Restrictions - Contacts. Contacts of a person with toxigenic diphtheria are restricted from working as food employees, working in health care facilities, or from attending or working in day care facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. These restrictions may be withdrawn by the Department or Health District. ()

231. -- 239. (RESERVED).

240. ENCEPHALITIS, VIRAL OR ASEPTIC.

01. Reporting Requirements. Each case of viral or aseptic encephalitis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of viral or aseptic encephalitis and meningitis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. ()

241. -- 249. (RESERVED).

250. ESCHERICHIA COLI O157:H7 AND OTHER SHIGA-TOXIN PRODUCING E. COLI (STEC).

01. Reporting Requirements. Each case or suspected case of *Escherichia coli* O157:H7 or other Shiga-toxin producing *E. coli* (STEC) must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation determines the extent of the outbreak and identifies the most likely source of the infection. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *E. coli* O157:H7 or other shiga-toxin producing *E. coli* (STEC). ()

04. Restrictions - Day Care Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not attend day care facilities while fecally incontinent or provide personal care to children in a day care facility while the disease is present in a communicable form without the approval of the Department or Health District. Two (2) fecal specimens negative for *E. coli* O157:H7 or other STEC are sufficient to remove this restriction. ()

05. Restrictions - Food Service Facility. A person diagnosed to have *E. coli* O157:H7 or other STEC which can be transmitted from one (1) person to another through food or beverage must not work as a food employee as long as the disease is in a communicable form. Food employees must be managed under IDAPA 16.02.19, "The Idaho Food Code." ()

06. Restrictions - Health Care Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not provide personal care to persons in a health care facility while the disease is present in a communicable form without the approval of the Department or Health District. Two (2) fecal specimens negative for *E. coli* O157:H7 or other STEC are sufficient to remove this restriction. ()

251. -- 259. (RESERVED).

260. EXTRAORDINARY OCCURRENCE OF ILLNESS, INCLUDING CLUSTERS.

01. Reporting Requirements. Cases, suspected cases, and clusters of extraordinary or unusual illness must be reported to the Department or Health District within one (1) working day by the diagnosing person. ()

a. Extraordinary or unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. ()

b. Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms must be reported to the Department or Health District within one (1) working day and investigated. ()

02. Investigation. Each reported case of extraordinary occurrence of illness, including clusters, must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify the source of infection or exposure, and determine whether there is a risk to the public warranting intervention by a public health agency. Evaluation and control measures will be undertaken in consultation with the Department and other appropriate agencies. The Department may elect to investigate by conducting special studies as outlined in Section 070 of these rules. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case. ()

261. -- 269. (RESERVED).

270. FOOD POISONING, FOODBORNE ILLNESS, AND WATERBORNE ILLNESS.

01. Reporting Requirements. Each case or suspected case of food poisoning, foodborne illness, or waterborne illness must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of food poisoning, foodborne illness, or waterborne illness must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify the source, and determine if actions need to be taken to prevent additional cases. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day of any reported case or suspected case. ()

271. -- 279. (RESERVED).

280. GALACTOSEMIA.

Each case or suspected case of galactosemia must be reported to the Department or Health District within one (1) working day after diagnosis. ()

281. -- 289. (RESERVED).

290. GIARDIASIS.

01. Reporting Requirements. Each case of giardiasis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of giardiasis must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation determines the water sources used by the person with giardiasis, the extent of the outbreak, and the most likely source of the infection. ()

03. Restrictions - Day Care Facility. A person with diarrhea who is excreting *Giardia lamblia* must not attend day care while fecally incontinent or provide personal care to children in a day care facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services or attend day care with specific approval of the Department or Health District. ()

04. Restrictions - Food Service Facility. A symptomatic person who is excreting *Giardia lamblia* is restricted from working as a food employee under IDAPA 16.02.19, "The Idaho Food Code." ()

05. Restrictions - Health Care Facility. A person with diarrhea who is excreting *Giardia lamblia* must not provide personal care to persons in a health care facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services with specific approval of the Department or Health District. ()

291. -- 299. (RESERVED).

300. HAEMOPHILUS INFLUENZAE INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Haemophilus influenzae* invasive disease, including meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of *Haemophilus influenzae* invasive disease must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify contacts, and determine the need for antimicrobial prophylaxis of close contacts. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Haemophilus influenzae* invasive disease. ()

04. Restrictions - Day Care Facility. A person who is diagnosed with a disease caused by invasive *Haemophilus influenzae* must not work in an occupation providing personal care to children, or attend a day care facility as long as the disease is in a communicable form. ()

05. Restrictions - School. A person who is diagnosed with a disease caused by invasive *Haemophilus influenzae* must not work in any occupation where there is direct contact with students or attend a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

301. -- 309. (RESERVED).

310. HANTAVIRUS PULMONARY SYNDROME.

01. Reporting Requirements. Each case or suspected case of hantavirus pulmonary syndrome must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of hantavirus pulmonary syndrome must be investigated to confirm the diagnosis, determine environmental risk factors leading to the infection, and determine any other at-risk individuals. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day by telephone on any reported case or suspected case of hantavirus pulmonary syndrome. ()

311. -- 319. (RESERVED).

320. HEMOLYTIC-UREMIC SYNDROME (HUS).

01. Reporting Requirements. Each case of HUS must be reported to the Department or Health District within one (1) working day. ()

02. Investigation. Each case of HUS must be investigated to confirm the diagnosis, determine the etiologic agent including *E. coli* O157:H7, non-O157 Shiga-toxin producing *E. coli*, or other enteric pathogens, and determine the source of infection. ()

321. -- 329. (RESERVED).

330. HEPATITIS A.

01. Reporting Requirements. Each case or suspected case of hepatitis A must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of hepatitis A must be investigated to confirm the diagnosis, identify contacts, determine the need for immune serum globulin (gamma globulin) or vaccine, and identify possible sources of the infection. ()

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis A when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

04. Restrictions - Day Care Facility. A child who has hepatitis A must not attend a day care facility until the disease is no longer communicable as determined by a licensed physician, or unless an exemption is made by the Department or Health District. ()

a. A person with hepatitis A must not work in any occupation in which personal care is provided to children in a day care facility while the disease is in a communicable form. ()

b. The Department or Health District may withdraw this restriction when the illness is considered to no longer be in a communicable form. ()

05. Exclusion - Food Service Facility.

a. A food employee with hepatitis A must be managed under IDAPA 16.02.19, "The Idaho Food Code." ()

b. A specific test for recent hepatitis A infection (IgM antiHAV) must be performed by a licensed laboratory on all food employees suspected of having hepatitis A. ()

06. Restrictions - Health Care Facility. A person with hepatitis A in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

a. A person with hepatitis A must not work in any occupation in which personal care is provided to persons who are in a health care or living in a residential care facility while the disease is in a communicable form. ()

b. The Department or Health District may withdraw this restriction when the illness is considered to no longer be in a communicable form. ()

07. Restrictions - Household Contacts. Any unvaccinated household member where there is a case of hepatitis A must not work in any of the occupations listed in Subsections 300.04 through 300.06 of this rule, unless an exemption is obtained from the Department or Health District. ()

331. -- 339. (RESERVED).

340. HEPATITIS B.

01. Reporting Requirements. Each case or suspected case of hepatitis B must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of hepatitis B must be investigated to confirm the diagnosis, identify contacts and carriers, determine the need for prophylaxis with immune globulins, determine the need for hepatitis B vaccine, determine the exposure of any pregnant women, and identify possible sources of the infection. ()

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis B when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

04. Carrier Status. The carrier status of a person diagnosed with hepatitis B will be determined six (6) months after the initial diagnosis is established. ()

a. The carrier status will be determined by the presence of hepatitis B surface antigen (HBsAg) in blood obtained at least six (6) months after the initial diagnosis of hepatitis B. ()

b. The test for hepatitis B surface antigen (HBsAg) must be performed by a licensed laboratory. ()

c. A person who is a carrier of hepatitis B must be reported to the Department or Health District by the physician at the time of determination for inclusion in the hepatitis B carrier registry. ()

341. -- 349. (RESERVED).

350. HEPATITIS C.

01. Reporting Requirements. Each case of hepatitis C must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of hepatitis C must be investigated to confirm the diagnosis and identify possible sources of the infection. Hepatitis C may be confirmed by presence of hepatitis C antibody or antigen. ()

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis C when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

351. -- 359. (RESERVED).

360. HUMAN IMMUNODEFICIENCY VIRUS (HIV).

01. Reporting Requirements. Each case of HIV infection, including positive HIV laboratory tests for HIV antibody, HIV antigen (protein or nucleic acid), human immunodeficiency virus isolations, or other tests of infectiousness that indicate HIV infection, must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of HIV infection must be investigated to obtain specific clinical information, identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. ()

03. Testing Without an Informed Consent. A physician may order blood tests for HIV when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

361. -- 369. (RESERVED).

370. HUMAN T-LYMPHOTROPIC VIRUS.

01. Reporting Requirements. Each case of HTLV infection must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of HTLV infection must be investigated to determine the source of infection and evaluate risk factors. ()

371. -- 379. (RESERVED).

380. LEAD POISONING.

01. Reporting Requirements. Each case of lead poisoning determined by symptoms or a blood lead level of ten (10) micrograms or more per deciliter (10 ug/dL) of whole blood, must be reported to the Department or Health District within three (3) working days of the identification of the case. ()

02. Investigation. Each reported case of lead poisoning or excess lead exposure must be investigated to determine the source, and whether actions need to be taken to prevent additional cases. ()

381. -- 389. (RESERVED).

390. LEGIONELLOSIS.

01. Reporting Requirements. Each case of legionellosis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of legionellosis must be investigated to confirm the diagnosis and identify possible sources of the infection. When two (2) or more cases occur within thirty (30) days of each other, an investigation must be conducted to identify a common environmental source and identify ways to prevent further infections. ()

391. -- 399. (RESERVED).

400. LEPROSY (HANSEN'S DISEASE).

01. Reporting Requirements. Each case of leprosy must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of leprosy must be investigated to confirm the diagnosis and to identify household or other close contacts. ()

03. Restrictions - Examination of Contacts. All household members or close contacts of a new case must be examined by a licensed physician for signs of leprosy. Household members and close contacts and persons in remission must be registered with the Department and undergo periodic medical examinations every six (6) to twelve (12) months for five (5) years. ()

401. -- 409. (RESERVED).

410. LEPTOSPIROSIS.

01. Reporting Requirements. Each case of leptospirosis must be reported to the Department or Health

District within three (3) working days of identification. ()

02. Investigation. Each reported case of leptospirosis must be investigated to confirm the diagnosis and to identify possible sources of the infection. ()

03. Handling of Report. Any identified or suspected source of infection reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. ()

411. -- 419. (RESERVED).

420. LISTERIOSIS.

01. Reporting Requirements. Each case of listeriosis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of listeriosis must be investigated to confirm the diagnosis and to identify possible sources of the infection and extent of the outbreak. ()

421. -- 429. (RESERVED).

430. LYME DISEASE.

01. Reporting Requirements. Each case of Lyme disease must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of Lyme disease must be investigated to confirm the diagnosis and to identify possible sources of the infection. ()

03. Handling of Report. Any identified or suspected source of infection reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. ()

431. -- 439. (RESERVED).

440. MALARIA.

01. Reporting Requirements. Each case of malaria must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of malaria must be investigated to determine the type and the source of the infection. If transmission may have occurred in Idaho, an entomologic investigation will be performed by the Department or Health District to determine the extent of mosquito activity, and to institute control measures if endemic transmission is determined. ()

03. Testing Without an Informed Consent. A physician may order blood tests for malaria when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

441. -- 449. (RESERVED).

450. MAPLE SYRUP URINE DISEASE.

Each case or suspected case of maple syrup urine disease must be reported to the Department or Health District within one (1) working day of identification. ()

451. -- 459. (RESERVED).

460. MEASLES (RUBEOLA).

01. Reporting Requirements. Each case or suspected case of measles must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of measles must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify the source of the infection, and to identify susceptible contacts. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of measles. ()

04. Restrictions - Day Care Facility and School. ()

a. A child diagnosed with measles must not attend a day care facility or school as long as the disease is in a communicable form. ()

b. In the event of a case of measles in a day care or school, susceptible children must be excluded until adequate immunization is obtained, or the threat of further spread of the disease is contained, as provided in Sections 33-512(7) and 39-1118, Idaho Code. ()

c. A person who is diagnosed as having measles must not work in any occupation in which there is direct contact with children, as long as the disease is in a communicable form. ()

05. Restrictions - Health Care Facility. A person diagnosed with measles in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

461. -- 469. (RESERVED).

470. MENINGITIS, VIRAL OR ASEPTIC.

Each case of viral or aseptic meningitis must be reported to the Department or Health District within three (3) working days of identification. ()

471. -- 479. (RESERVED).

480. MUMPS.

01. Reporting Requirements. Each case of mumps must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of mumps must be investigated to determine the immunization history or if the cause for an outbreak is unusual. ()

03. Restrictions. A person with mumps must be restricted from day care, school, or work for nine (9) days after the onset of parotid swelling. ()

481. -- 489. (RESERVED).

490. MYOCARDITIS, VIRAL.

01. Reporting Requirements. Each case of viral myocarditis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of viral myocarditis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. ()

491. -- 499. (RESERVED).

500. NEISSERIA GONORRHOEAE.

01. Reporting Requirements. Each case of *Neisseria gonorrhoeae* infection must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. A person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea is required to inform his sexual contacts or provide sufficient information to health officials in order to locate these contacts. The contacts must be advised of their exposure to a sexually transmitted infection and informed they should seek examination and treatment. ()

03. Prophylaxis of Newborns. Prophylaxis against *gonococcal ophthalmia neonatorum* is described in IDAPA 16.02.12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants." ()

04. Isolation - Health Care Facility. A person with *gonococcal ophthalmia neonatorum* in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

501. -- 509. (RESERVED).

510. NEISSERIA MENINGITIDIS INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Neisseria meningitidis* invasive disease, including meningitis and septicemia, must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of *Neisseria meningitidis* invasive disease must be investigated to confirm the diagnosis, to determine the extent of the outbreak, identify contacts, and determine the need for antimicrobial prophylaxis or immunization of close contacts. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Neisseria meningitidis* invasive disease. ()

04. Restrictions - Day Care Facility. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not provide personal care to children, or attend a day care facility, as long as the disease is present in a communicable form. ()

05. Restrictions - Health Care Facility. A person with *Neisseria meningitidis* in a health care facility or residential care facility must be placed under respiratory isolation until twenty-four (24) hours after initiation of effective therapy. ()

06. Restrictions - School. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not work in any occupation that involves direct contact with students, or attend a private, parochial, charter, or public school as long as the disease is present in a communicable form. ()

511. -- 519. (RESERVED).

520. NOROVIRUS.

01. Reporting Requirements. Each case or suspected case of norovirus must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of norovirus must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify the source of the infection. ()

03. Restrictions - Day Care Facility. A person excreting norovirus must not attend or provide personal care in a day care while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. ()

04. Exclusions - Food Service Facility. A person suspected or diagnosed with norovirus is excluded from working as a food employee while symptomatic, unless an exemption is made by the Department or Health District. This exclusion will be withdrawn once the person is asymptomatic, unless hygienic practices are insufficient. ()

05. Restrictions - Health Care Facility. A person excreting norovirus must not provide personal care in a health care facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. ()

06. Restrictions - School. A person excreting norovirus must not attend or work in a private, parochial, charter, or public school while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. ()

521. -- 529. (RESERVED).

530. PERTUSSIS.

01. Reporting Requirements. Each case or suspected case of pertussis must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of pertussis must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify susceptible contacts, and identify the source of the infection. ()

03. Restrictions - Day Care Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with children, or attend a day care facility, as long as the disease is in a communicable form. ()

04. Restrictions - Health Care Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with other persons in a health care facility as long as the disease is in a communicable form. ()

05. Restrictions - School. A person diagnosed with pertussis must not attend or work in a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

531. -- 539. (RESERVED).

540. PHENYLKETONURIA.

Each case or suspected case of phenylketonuria must be reported to the Department or Health District within one (1) working day of identification. ()

541. -- 549. (RESERVED).

550. PLAGUE.

01. Reporting Requirements. Each case or suspected case of plague must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation. Each reported case of plague must be investigated to confirm the diagnosis, determine the source, the extent of the outbreak, and whether there has been person-to-person transmission. ()

03. Handling of Report. Each case of plague reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. ()

04. Restrictions - Health Care Facility. ()

a. A person with or suspected of having pneumonic plague in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

b. A person with or suspected of having bubonic plague in health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. ()

05. Prophylaxis of Contacts. Household members and face-to-face contacts of a person with pneumonic plague must be placed on chemoprophylaxis and placed under surveillance for seven (7) days. A person who refuses chemoprophylaxis must be maintained under droplet precautions with careful surveillance for seven (7) days. ()

551. -- 559. (RESERVED).

560. PNEUMOCOCCAL INVASIVE DISEASE IN CHILDREN LESS THAN EIGHTEEN YEARS OF AGE.

01. Reporting Requirements. Each case of pneumococcal invasive disease in children under eighteen (18) years of age including meningitis, septicemia, bacteremia, and pneumonia, must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of pneumococcal invasive disease in children must be investigated to confirm the diagnosis and determine relevant vaccine history. ()

03. Restrictions - Day Care Facility. A person who is diagnosed with pneumococcal invasive disease must not attend day care or work in any occupation in which there is direct contact with children in a day care facility as long as the disease is in a communicable form. ()

04. Restrictions - School. A person diagnosed with pneumococcal invasive disease must not attend or work in any occupation in which there is direct contact with children in a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

561. -- 569. (RESERVED).

570. PNEUMOCYSTIS PNEUMONIA (PCP).

01. Reporting Requirements. Each case of Pneumocystis pneumonia (PCP) must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of Pneumocystis pneumonia (PCP) must be investigated to confirm the diagnosis, and to determine the underlying cause of any immune deficiency which may have contributed to the disease. When the underlying cause is an HIV infection, it must be reported as described in Section 360 of these rules. ()

571. -- 579. (RESERVED).

580. POLIOMYELITIS.

01. Reporting Requirements. Each case or suspected case of poliomyelitis infection must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of poliomyelitis infection must be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated or wild virus associated, to determine the extent of the outbreak, whether there has been person-to-person transmission, and to identify susceptible contacts, carriers, and source of the infection. ()

03. Immunization of Personal Contacts. The immunization status of personal contacts is determined and susceptible contacts are offered immunization. ()

581. -- 589. (RESERVED).

590. PSITTACOSIS.

01. Reporting Requirements. Each case of psittacosis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify possible sources of the infection. ()

03. Handling of Report. Any identified sources or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if birds or other animals are involved. ()

591. -- 599. (RESERVED).

600. Q FEVER.

01. Reporting Requirements. Each case or suspected case of Q fever must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of Q fever must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify the source of the infection. ()

03. Handling of Report. Any identified or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if animals are involved. ()

601. -- 609. (RESERVED).

610. RABIES -- HUMAN AND ANIMAL.

01. Reporting Requirements. ()

a. Each case or suspected case of rabies in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

b. Each case or suspected case of rabies in animals must be reported to the Department or Health District and the Idaho Department of Agriculture within one (1) working day of identification. ()

c. Each instance of rabies post-exposure prophylaxis (rPEP) series initiation must be reported to the Department or Health District within one (1) working day. ()

02. Investigation. ()

a. Each reported case or suspected case of rabies in humans must be investigated to confirm the diagnosis, identify the source and other persons or animals that may have been exposed to the source, and identify persons who may need to undergo prophylaxis with rabies immune globulin and rabies vaccine. ()

b. Each reported rPEP series initiation must be investigated to determine if additional individuals require rPEP and identify the source of possible exposure. ()

03. Handling of Report. The Health District must notify the Department and the Idaho Department of Agriculture within one (1) working day of each reported case of this disease. ()

04. Management of Exposure to Rabies. In the event that a human or animal case of rabies occurs, any designated representative of the Department, Health District, or Idaho Department of Agriculture, will establish such isolation and quarantine of animals as deemed necessary to protect the public health. ()

a. The handling of a rabies-susceptible animal that has bitten a person must be as follows: ()

- i. Any livestock which has bitten a person must be managed by the Idaho Department of Agriculture. ()
- ii. Any healthy domestic dog, cat, or ferret that has bitten a person must be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture, Health District, or the Department. Such observation must be within an enclosure or with restraints deemed adequate to prevent contact with any member of the public or other animals. ()
- iii. It is the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. ()
- iv. Any domestic dog, cat, or ferret that has not been vaccinated against rabies by a licensed veterinarian and can not be quarantined, must be destroyed by a means other than shooting in the head. The head must be submitted to an approved laboratory for rabies analysis. ()
- v. Susceptible animals other than domestic dogs, cats, ferrets, or livestock must be destroyed and the head submitted to an approved laboratory for rabies analysis, unless an exemption is given by the Department or Health District. ()
- vi. No person will destroy, or allow to be destroyed, the head of a rabies-susceptible animal that has bitten a person without authorization from the Department or Health District. ()
- b.** The handling of a rabies-susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, mauled by, or closely confined in the same premises with a known rabid animal must be as follows: ()
 - i. Any domestic dog, cat, ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, must be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Idaho Department of Agriculture, Health District, or the Department and vaccinated according to the Rabies Compendium. An animal with current vaccinations, including livestock, should be revaccinated immediately with an appropriate rabies vaccine and quarantined for forty-five (45) days. These provisions apply only to animals for which an approved rabies vaccine is available. ()
 - ii. The quarantine of such animal must be within an enclosure deemed adequate by a person designated by the Idaho Department of Agriculture, the Department, or Health District to prevent contact with any person or rabies-susceptible animal. ()
 - iii. The owner of the animal is financially responsible for the cost of isolating and quarantining the animal and for specimen collection and testing. ()
 - iv. Destruction of such animal is permitted as an alternative to quarantine. ()
- c.** Any rabies-susceptible animal other than domestic dogs, cats, ferrets, or livestock that are suspected of having rabies, or which have been in close contact with an animal known to be rabid, must be destroyed. The animal must be tested by an approved laboratory for rabies if a person has been bitten or has had direct contact with the animal which might result in the person becoming infected. ()

05. City or County Authority. Nothing in these rules is intended or will be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. ()

611. -- 619. (RESERVED).

620. RELAPSING FEVER, TICK-BORNE AND LOUSE-BORNE.

01. Reporting Requirements. Each case of tick-borne or louse-borne relapsing fever must be reported

to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of tick-borne or louse-borne relapsing fever must be investigated to confirm the diagnosis, determine the extent and source of the outbreak, and whether transmission was from lice or ticks. ()

621. -- 629. (RESERVED).

630. RESPIRATORY SYNCYTIAL VIRUS (RSV).

A laboratory director must report each detection of respiratory syncytial virus (RSV) infection to the Department or Health District within one (1) working day of identification. ()

631. -- 639. (RESERVED).

640. REYE SYNDROME.

01. Reporting Requirements. Each case of Reye syndrome must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of Reye syndrome must be investigated to obtain specific clinical information and to learn more about the etiology, risk factors, and means of preventing the syndrome. ()

641. -- 649. (RESERVED).

650. ROCKY MOUNTAIN SPOTTED FEVER.

01. Reporting Requirements. Each case of Rocky Mountain spotted fever must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of Rocky Mountain spotted fever must be investigated to confirm the diagnosis, identify the source of infection, and determine if control measures should be initiated. ()

651. -- 659. (RESERVED).

660. RUBELLA - INCLUDING CONGENITAL RUBELLA SYNDROME.

01. Reporting Requirements. Each case or suspected case of rubella or congenital rubella syndrome must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of rubella or congenital rubella syndrome must be investigated to confirm the diagnosis, determine the extent of the outbreak, identify any contacts who are susceptible and pregnant, and document the presence of the congenital rubella syndrome. ()

03. Restrictions - Day Care Facility. A person diagnosed with rubella must not attend, be present, or work in any occupation in which there is close contact with children in a day care facility as long as the disease is in a communicable form. ()

04. Restrictions - Health Care Facility. A person diagnosed with rubella must not work in any occupation in which there is close contact with other persons in a health care facility as long as the disease is in a communicable form. ()

05. Restrictions - Schools. A person diagnosed with rubella must not attend, be present, or work in any occupation in which there is close contact with children or other persons in a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

06. Restrictions - Personal Contact. A person diagnosed with rubella must not work in occupations in which there is close contact with women likely to be pregnant as long as the disease is in a communicable form.

()

661. -- 669. (RESERVED).

670. SALMONELLOSIS - INCLUDING TYPHOID FEVER.

01. Reporting Requirements. Each case or suspected case of salmonellosis or typhoid fever must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of salmonellosis or typhoid fever must be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of contamination. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. ()

04. Restrictions - Chronic Carrier. Chronic carriers, which are those who excrete *Salmonella* for more than one (1) year after onset, are restricted from working as food employees. Chronic carriers must not work in any occupation in which they provide personal care to children in day care facilities, or to persons who are confined to health care facilities or residential care facilities, until *Salmonella* is not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. ()

05. Restrictions - Non-Typhi Salmonella. ()

a. A fecally incontinent person excreting non-Typhi *Salmonella* must not attend a day care facility. ()

b. A person excreting non-Typhi *Salmonella* must not work in any occupation in which they provide personal care to children in a day care facility or provide personal care to persons confined to a health care facility, unless an exemption is obtained from the Department or Health District. ()

c. A symptomatic food employee excreting non-Typhi *Salmonella* must be managed under the IDAPA 16.02.19, "The Idaho Food Code." ()

d. If hygienic practices are insufficient, before a person can attend or work in a day care facility or a health care facility, or work as a food employee, he must provide two (2) approved fecal specimens which are negative for *Salmonella* upon testing by a licensed laboratory, collected not less than twenty-four (24) hours apart and forty-eight (48) hours after the last dose of antimicrobials. ()

e. The Department may withdraw this restriction on a case of non-Typhi *Salmonella* provided that the person is asymptomatic. ()

f. Any member of a household in which there is a case of non-Typhi salmonellosis must not work as a food employee until he produces at least one (1) negative fecal specimen for *Salmonella* upon testing by a licensed laboratory. ()

06. Restrictions - Salmonella Typhi.

a. Any person with typhoid fever will remain subject to the supervision of the Department until *Salmonella Typhi* is not isolated by a licensed laboratory from three (3) successive approved fecal specimens. These specimens are to be collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. ()

b. A food employee excreting *Salmonella Typhi* must be managed under IDAPA 16.02.19, "The Idaho Food Code." ()

c. Any member of a household in which there is a case of *Salmonella Typhi* must not work in the

occupations described in Subsection 570.04 of this rule until at least two (2) fecal specimens approved fecal specimens are negative for *Salmonella* upon testing by a licensed laboratory. ()

d. All chronic carriers of *Salmonella Typhi* must abide by a written agreement called a typhoid fever carrier agreement. This agreement is between the chronic carrier and the Department or Health District. Failure of the carrier to abide by the carrier agreement may cause the carrier to be isolated under Section 065 of these rules. The carrier agreement requires: ()

i. The carrier cannot work as a food employee; ()

ii. Specimens must be furnished for examination in a manner described by the Department or Health District. ()

iii. The Department or Health District must be notified immediately of any change of address, occupation, and cases of illness suggestive of typhoid fever in his family or among immediate associates. ()

e. Chronic carriers of typhoid fever may be released from carrier status when *Salmonella Typhi* is not identified by a licensed laboratory in any of six (6) consecutive approved fecal and urine specimens collected at least one (1) month apart. ()

671. -- 679. (RESERVED).

680. SEVERE ACUTE RESPIRATORY SYNDROME (SARS).

01. Reporting Requirements. Each case or suspected case of severe acute respiratory syndrome (SARS) must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of SARS must be investigated to confirm the diagnosis, review the travel and other exposure history, identify other persons potentially at risk, and identify the most likely source of the infection. ()

03. Isolation. Recommendations for appropriate isolation of the suspected or confirmed case will be made by the Department or Health District. ()

681. -- 689. (RESERVED).

690. SEVERE REACTION TO ANY IMMUNIZATION.

01. Reporting Requirements. Each case or suspected case of a severe reaction to any immunization must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of severe reaction to any immunization must be investigated to confirm and document the circumstances relating to the reported reaction to the immunization. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case. ()

691. -- 699. (RESERVED).

700. SHIGELLOSIS.

01. Reporting Requirements. Each case or suspected case of shigellosis must be reported to the Department or Health District within one (1) working day of identification. ()

02. Investigation. Each reported case of shigellosis must be investigated to confirm the diagnosis and determine the extent of the outbreak. An attempt must be made to identify contacts, carriers, and the source of the infection. ()

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. ()

04. Restrictions - Day Care Facility. ()

a. A person excreting *Shigella* must not attend a day care facility while fecally incontinent. ()

b. A person excreting *Shigella* must not work in any occupation in which he provides personal care to children in a day care facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a day care facility, a cohort system may be approved. ()

c. The Department or Health District may withdraw the day care restriction provided that two (2) approved fecal specimens collected at least twenty-four (24) hours apart are negative for *Shigella* upon testing by a licensed laboratory. ()

05. Exclusions - Food Service Facility.

a. A food employee excreting *Shigella* must be managed under IDAPA 16.02.19, "The Idaho Food Code." ()

b. The Department or Health District may withdraw the food service restriction provided that two (2) approved fecal specimens collected at least twenty-four (24) hours apart are negative for *Shigella* upon testing by a licensed laboratory. ()

06. Restrictions - Health Care Facility. A person excreting *Shigella* must not work in any occupation in which he provides personal care to persons who are confined to a health care facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a facility, a cohort system may be approved. ()

07. Restrictions - Household Contacts. No member of a household, in which there is a case of shigellosis, may work in any occupations in Subsections 700.04 through 700.06 of this rule, unless the Department or Health District approves and at least one (1) fecal specimen is negative for *Shigella* upon testing by a licensed laboratory. ()

701. -- 709. (RESERVED).

710. SMALLPOX.

01. Reporting Requirements. Each case or suspected case of smallpox must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation. Each reported case of smallpox must be investigated promptly to confirm the diagnosis, determine the extent of the outbreak, and identify the source of the infection and susceptible contacts. ()

03. Restrictions - Day Care Facility. ()

a. A person diagnosed with smallpox must not attend a day care facility as long as the disease is in a communicable form. ()

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from day care facilities where a case has been identified until adequate immunization is obtained or the threat of further spread is contained. ()

04. Restrictions - Health Care Facility. A person diagnosed or suspected of having smallpox in a

health care facility must be managed under the “Guideline for Isolation Precautions in Hospitals,” as incorporated in Section 004 of these rules. ()

05. Restrictions - Public Gatherings. A person diagnosed with smallpox must not attend public gatherings as long as the disease is in a communicable form. ()

06. Restrictions - School. ()

a. A person diagnosed with smallpox, regardless of age, must not attend a private, parochial, charter, or public school as long as the disease is in a communicable form. ()

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from schools where a case has been identified until adequate immunization is obtained or the threat of further spread is contained under Section 33-512(7), Idaho Code. ()

07. Restrictions - Working. A person diagnosed with smallpox must not work in any occupation as long as the disease is in a communicable form. ()

711. -- 719. (RESERVED).

720. STREPTOCOCCUS PYOGENES (GROUP A STREP) INFECTIONS WHICH ARE INVASIVE OR RESULT IN RHEUMATIC FEVER.

01. Reporting Requirements. Each case of *Streptococcus pyogenes* (group A Strep) infection which is invasive or results in rheumatic fever must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of *Streptococcus pyogenes* (group A Strep) infection must be investigated to confirm the diagnosis, to determine if the infection is part of an outbreak, and to identify the source of the infection. ()

03. Restrictions - Day Care Facility. An infected person must not attend or work in a day care until twenty-four (24) hours has elapsed after treatment is initiated or until he is no longer infectious as determined by a physician, the Department or Health District. ()

04. Restrictions - Health Care Facility. An infected person must not work in a health care facility until twenty-four (24) hours has elapsed after treatment is initiated or until he is no longer infectious as determined by a physician, the Department or Health District. ()

05. Restrictions - School. An infected person must not attend or work in a private, parochial, charter, or public school until twenty-four (24) hours has elapsed after treatment is initiated or until the patient is no longer infectious as determined by a physician, the Department or Health District. ()

721. -- 729. (RESERVED).

730. SYPHILIS.

01. Reporting Requirements. Each case or suspected case of syphilis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of primary, secondary, or early latent syphilis must be investigated by the Department or Health District. Each person diagnosed with infectious syphilis is required to inform his sexual contacts that they may have been exposed to a sexually transmitted infection, or provide sufficient information to public health officials so they may locate contacts and assure that each is offered prompt diagnosis and treatment under Section 39-605, Idaho Code. ()

03. Testing Without an Informed Consent. A physician may order blood tests for syphilis when an

informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

731. -- 739. (RESERVED).

740. TETANUS.

01. Reporting Requirements. Each case of tetanus must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of tetanus must be investigated to confirm the diagnosis and to determine the immunization status of the case. ()

741. -- 749. (RESERVED).

750. TOXIC SHOCK SYNDROME.

01. Reporting Requirements. Each case of toxic shock syndrome must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of toxic shock syndrome must be investigated to obtain specific clinical information on the syndrome and to determine the etiology, risk factors, and means of preventing the syndrome. ()

751. -- 759. (RESERVED).

760. TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (TSE), INCLUDING CREUTZFELDT-JAKOB DISEASE (CJD) AND VARIANT CJD (VCJD).

01. Reporting Requirements. Each case of transmissible spongiform encephalopathy (TSE), including Creutzfeldt-Jakob disease (CJD) and variant CJD (vCJD) must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of transmissible spongiform encephalopathy (TSE) must be investigated to determine the cause and confirm the diagnosis. ()

03. Autopsy. The state epidemiologist may order an autopsy for suspected CJD or vCJD cases as per Section 39-277, Idaho Code. ()

761. -- 769. (RESERVED).

770. TRICHINOSIS.

01. Reporting Requirements. Each case of trichinosis must be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of trichinosis must be investigated to confirm the diagnosis, determine the extent of the outbreak, and identify the source of the infection. ()

03. Handling of Report. The Department will notify the Idaho Department of Agriculture and other regulatory agencies as applicable. ()

771. -- 779. (RESERVED).

780. TUBERCULOSIS.

01. Reporting Requirements. Each case of tuberculosis must be reported to the Department or Health

District within three (3) working days of identification. ()

02. Investigation. Each reported case of tuberculosis must be investigated to confirm the diagnosis, identify contacts, associated cases, and the source of the infection. ()

03. Restrictions - Day Care Facility. A person with infectious pulmonary tuberculosis must not attend or work in any occupation in which he has direct contact or provides personal care to children in a day care facility, until he is determined to be noninfectious by a licensed physician, the Department or Health District. ()

04. Restrictions - Health Care Facility. ()

a. A person suspected to have pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until the diagnosis of infectious pulmonary tuberculosis is excluded by a licensed physician. ()

b. A person with active pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until he is determined to be noninfectious by a licensed physician, the infection control committee of the facility, or the Department. ()

c. A person with infectious pulmonary tuberculosis must not work in any occupation in which he has direct contact or provides personal care to persons confined to a health care or residential care facility, until he is determined to be noninfectious by a licensed physician, infection control committee of the facility, or the Department. ()

d. In the event that communicable tuberculosis is diagnosed in an employee, patient, or resident, the health care facility must conduct an investigation to identify contacts. The Department or Health District may assist in the investigation. ()

05. Restrictions - School. A person with infectious pulmonary tuberculosis must not attend or work in any occupation in which he has direct contact with students in a private, parochial, charter, or public school until he is determined to be noninfectious by a licensed physician, the Department or Health District. ()

06. Restrictions - Household Contacts. Any member of a household, in which there is a case of infectious tuberculosis, must not attend or work in any occupation in which he provides direct supervision of students in a school, personal care to children in a day care facility, personal care to persons who are confined to a health care facility, or works in a food service facility, until he has been determined to be free from communicable tuberculosis. ()

781. -- 789. (RESERVED).

790. TULAREMIA.

01. Reporting Requirements. Each case or suspected case of tularemia must be reported to the Department or Health District immediately, at the time of identification, day or night. ()

02. Investigation. Each reported case of tularemia must be investigated to confirm the diagnosis and to identify the source of the infection. ()

03. Handling of Report. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of the infection. ()

791. -- 799. (RESERVED).

800. WEST NILE VIRUS (WNV).

01. Reporting Requirements. Each case or suspected case of West Nile virus (WNV) infection must

be reported to the Department or Health District within three (3) working days of identification. ()

02. Investigation. Each reported case of WNV infection must be investigated to confirm the diagnosis, review any travel history, review any blood donations, and identify the most likely source of infection including exposure to vectors, blood transfusion, or organ receipt. ()

801. -- 809. (RESERVED).

810. YERSINIOSIS, OTHER THAN PLAGUE.

01. Reporting Requirements. Each case of yersiniosis, other than plague, must be reported to the Department or Health District within three (3) working days of identification. Plague must be reported immediately as described in Section 550 of these rules. ()

02. Investigation. Each reported case of yersiniosis must be investigated to confirm the diagnosis, identify carriers, and the source of the infection. ()

03. Restrictions - Food Service Facility. A symptomatic person excreting *Yersinia* is restricted from working as a food employee under IDAPA 16.02.19, "The Idaho Food Code." ()

811. -- 949. (RESERVED).

DELEGATION OF POWERS AND DUTIES
(SECTIONS 950 - 999)

950. DELEGATION OF POWERS AND DUTIES.

The Director has the authority to delegate to the Health Districts any of the powers and duties created by these rules under Section 39-414(2), Idaho Code. Any delegation authority will be in writing and signed by the both the Director and the Health District Board. ()

951. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS (THE IDAHO FOOD CODE)

DOCKET NO. 16-0219-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Tuesday, September 18, 2007	Wednesday, September 19, 2007	Thursday, September 20, 2007
2:00 p.m.	2:00 p.m.	2:00 p.m.
Ameritel Inn	Ameritel Inn-Spectrum	Ameritel Inn
Coeur d'Alene West Conf. Rm.	Robie Creek Conf. Rm.	Pebble Creek Conf. Rm.
333 W. Ironwood Dr.	7499 W. Overland Rd.	1440 Bench Road
Coeur d'Alene, ID 83814	Boise, ID 83709	Pocatello, ID 83201
Phone: (208) 665-9000	Phone: (208) 323-2500	Phone: (208) 234-7500

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

To help protect the public against food-borne illnesses, the Department of Health and Welfare have rules governing food safety and sanitation standards known as "The Idaho Food Code." These rules are being amended for the following reasons.

1. Vendors at farmers' or community markets who sell prepared foods are required to meet these food safety standards. To make the rules easier to understand and to improve the consistency of how the rules are applied to these types of vendors throughout the state, a definition for an "intermittent food establishment" is being added to clarify farmers' or community markets.
2. As new diseases or illnesses become known, the Centers for Disease Control and Preventions (CDC) determines which ones need to be controlled to prevent the spread of the disease. CDC has determined that Norovirus is the most common cause of food-borne outbreaks nationwide. The employee health section of these rules is being amended to add safety standards and precautions for the disease Norovirus.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state general fund for this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 6, 2007, Idaho Administrative Bulletin, Vol. 07-6, page 64. The negotiated meetings were held for the issue of vendors at farmers' or community markets. The changes being made in this docket for Norovirus were not negotiated.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this proposed rulemaking contact Patrick Guzzle at (208) 334-5938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 27th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT FOR DOCKET 16-0219-0701

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.

The definitions defined in this section are modifications or additions to the definitions given in the 2001 Food Code. (4-6-05)

01. Agricultural Market. Any fixed or mobile retail food establishment engaged in the sale of raw or fresh fruits, vegetables and nuts in the shell. It may also include the sale of factory-sealed non-potentially hazardous foods. (4-6-05)

02. Board. The State of Idaho Board of Health and Welfare as established in Section 56-1005, Idaho Code. (4-6-05)

03. Consent Order. A consent order is an enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. (4-6-05)

04. Department. The Idaho Department of Health and Welfare as established in Section 56-1002, Idaho Code. (4-6-05)

05. Director. The Director of the Idaho Department of Health and Welfare as established in Section 56-1003, Idaho Code. (4-6-05)

06. Embargo. An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. (4-6-05)

07. Enforcement Inspection. An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. (4-6-05)

08. Food Establishment. Modifications to Section 1-201.10(36) by deleting Section 1-201.10(36)(c)(iii) amends the definition of food establishment. (4-6-05)

09. Food Processing Plant. Modification to Section 1-201.10(37) by deleting Section 1-201.10(37)(b) amends the definition of food processing plant. (4-6-05)

10. High-Risk Food Establishment. A high-risk food establishment does the following operations: (4-6-05)

- a. Extensive handling of raw ingredients; (4-6-05)
- b. Preparation processes that include the cooking, cooling and reheating of potentially hazardous foods. (4-6-05)
- c. A variety of processes requiring hot and cold holding of potentially hazardous food. (4-6-05)

11. Intermittent Food Establishment. An intermittent food establishment is one that operates for a period of time, not to exceed three (3) days per week, at a single, specified location in conjunction with a recurring event. Examples of a recurring event may be a farmers' or community market, or a holiday market. ()

(BREAK IN CONTINUITY OF SECTIONS)

220. EMPLOYEE HEALTH.

01. Reporting of Norovirus. Addition to Section 2-201.11. The addition of Norovirus to illnesses required to be reported. ()

a. A person diagnosed or ill with Norovirus within the past forty-eight (48) hours is required to report the illness to the person in charge. ()

b. A food employee, who lives in the same household and has knowledge of a person who is diagnosed with Norovirus, is required to report that information to the person in charge. ()

02. Exclusion and Restrictions. Addition to Section 2-201.12. In addition, ~~the~~ the person in charge of a food establishment must: ()

a. ~~Notify~~ the regulatory authority to obtain guidance on proper actions needed to protect the public if there is reason to suspect that any employee has a disease that is communicable through food as listed in IDAPA 16.02.10. "Idaho Reportable Diseases;" ~~Subsection 025.02.1~~; (4-6-05)()

b. Exclude a food employee diagnosed with an infection from Norovirus when symptomatic; ()

c. Restrict a food employee diagnosed with an infection from Norovirus when asymptomatic; and ()

d. Exclude a food employee diagnosed with an infection from Norovirus whether symptomatic or asymptomatic when serving a highly susceptible population. ()

03. Removal of Exclusion and Restrictions. Addition to Section 2-201.13. In addition, the person in charge may remove an employee diagnosed with Norovirus from restriction or exclusion when one (1) of the following conditions is met: ()

a. Written medical documentation is provided from a licensed medical practitioner; ()

b. Forty-eight (48) hours have passed since the employee became asymptomatic; or ()

c. Employee did not develop symptoms and more than forty-eight (48) hours have passed since the employee was diagnosed with Norovirus. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.02 - RULES AND MINIMUM STANDARDS FOR SKILLED NURSING AND
INTERMEDIATE CARE FACILITIES

DOCKET NO. 16-0302-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. This action is authorized pursuant to Sections 39-1306, 39-1307, 39-1307A, 39-1307B, 56-1004A, and 56-1005(8), Idaho Code, in response to the conclusion of the pilot project for criminal history and background checks in long-term care settings.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 11, 2007 at 6:00 p.m.
Department of Health and Welfare
1720 Westgate Drive
Suite D, Room 119, Boise, Idaho

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, skilled nursing and intermediate care facilities participate in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expire on September 30, 2007.

In order to protect vulnerable adults living in skilled nursing and intermediate care facilities, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. Checks conducted by other entities at a minimum, must

1. Be fingerprint-based; and
2. Include a search of specified sources for criminal history and background records.

This rule change states when an individual is available to work and provides other requirements necessary to complete a criminal history and background check.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)a, and 67-5226(1)b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Under Section 56-1004A(9), Idaho Code, the federal pilot project to conduct criminal history and background checks in long-term care settings expires September 30, 2007. These rules are being promulgated to continue requiring these checks to protect vulnerable adults and children in long-term care facilities.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Applicants are responsible for the cost of the criminal history and background check under Section 56-1004A(5), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general

fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state general fund. The criminal history and background checks are paid for by applicants to cover Department costs for the checks.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 6, 2007, Vol. 07-6, page 65.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0302-0701

000. LEGAL AUTHORITY.

~~Pursuant to Title 39, Chapter 13, Idaho Code,~~ The Idaho Legislature has delegated to the ~~Department~~ Board of Health and Welfare the responsibility to establish and enforce ~~such~~ rules ~~as may be necessary~~ to promote safe and adequate treatment of individuals within a Skilled Nursing or Intermediate Care Facility under Sections 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code. ~~(1-1-88)~~(10-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

004. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 007 and 008 of these rules. (10-1-07)T

005. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (10-1-07)T

006. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter of rules. (10-1-07)T

007. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (10-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (10-1-07)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (10-1-07)T

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (10-1-07)T

06. Division of Medicaid. The Department's Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (10-1-07)T

07. Licensing and Survey Agency. The Department's Licensing and Survey Agency, 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (10-1-07)T

08. Licensing and Survey Agency Website. <http://www.facilitystandards.idaho.gov>. (10-1-07)T

008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (10-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (10-1-07)T

03. Disclosure of Resident Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure. (10-1-07)T

04. Public Availability of Deficiencies. The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Survey Agency Web site. (10-1-07)T

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A skilled nursing and intermediate care facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the skilled nursing and intermediate care facility. A Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be accepted provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (10-1-07)T

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be a fingerprint-based criminal history and background check that includes a search of the following record sources: (10-1-07)T

a. Federal Bureau of Investigation (FBI); (10-1-07)T

- b.** Idaho State Police Bureau of Criminal Identification; (10-1-07)T
- c.** Sexual Offender Registry; (10-1-07)T
- d.** Office of Inspector General List of Excluded Individuals and Entities; and (10-1-07)T
- e.** Nurse Aide Registry. (10-1-07)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (10-1-07)T

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (10-1-07)T

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (10-1-07)T

- a.** Accepting employment with a new employer; and (10-1-07)T
- b.** His last criminal history and background check was completed more than three (3) years prior to his date of hire. (10-1-07)T

06. Use of Criminal History Check Within Three Years of Completion. Any employer may use a previous criminal history and background check obtained under these rules if: (10-1-07)T

- a.** The individual has received a criminal history and background check within three (3) years of his date of hire; (10-1-07)T
- b.** The employer has documentation of the criminal history and background check findings; (10-1-07)T
- c.** The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and (10-1-07)T
- d.** No disqualifying crimes are found. (10-1-07)T

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within the three (3) years of his date of hire. (10-1-07)T

~~004010.~~ -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

304. -- 9959. (RESERVED).

~~996. ADMINISTRATIVE PROVISIONS.~~

~~Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~

~~(12-31-91)~~

997. ~~CONFIDENTIALITY OF RECORDS.~~

~~Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records."~~

~~(12-31-91)~~

998. ~~INCLUSIVE GENDER.~~ ~~As used in these regulations, the masculine, feminine, or neuter gender, and the singular or plural number, will each be deemed to include the others whenever the context so requires.~~~~(1-1-88)~~

999. ~~SEVERABILITY.~~

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of the chapter.~~

~~(1-1-88)~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.07 - RULES FOR HOME HEALTH AGENCIES

DOCKET NO. 16-0307-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. This action is authorized pursuant to Sections 39-2401(2), 56-1004A, and 56-1005(8), Idaho Code, is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 11, 2007 at 6:00 p.m.
Department of Health and Welfare
1720 Westgate Drive
Suite D, Room 119, Boise, Idaho

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, home health agencies participate in a pilot project for criminal history and background checks for workers who have access, or provide care to individuals living in their own home. The pilot project and federal funding for these checks expire on September 30, 2007.

The Department has decided to continue to require the Department's criminal history and background check for an individual who is employed or contracted with and has access to patients through a home health agency. These rules are being amended to require these checks.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)a, and b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Under Section 56-1004A(9), Idaho Code, the federal pilot project to conduct criminal history and background checks in long-term care settings expires September 30, 2007. These rules are being promulgated to continue requiring these checks to protect vulnerable adults and children in long-term care settings.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Applicants are responsible for the cost of the criminal history and background check under Section 56-1004A(5), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. The criminal history and background checks are paid for by applicants to cover Department costs for the checks.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Negotiated Rulemaking Notice was published in the Idaho Administrative Bulletin, June 6, 2007, Vol. 07-6, page 67.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor,
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0307-0701

005. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 008 and 010 of these rules. (10-1-07)T

006. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (10-1-07)T

007. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter of rule. (10-1-07)T

008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records.” (10-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (10-1-07)T

03. Disclosure of Patient Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual patients except as necessary in a proceeding involving a question of licensure. (10-1-07)T

04. Public Availability of Deficiencies. The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Survey Agency Web site. (10-1-07)T

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department’s Criminal History and Background Check. A home health agency must comply with IDAPA 16.05.06, “Criminal History and Background Checks.” (10-1-07)T

02. Direct Patient Access Individuals. These rules apply to employees and contractors hired or contracted with after October 1, 2007, who have direct patient access. (10-1-07)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must complete an application before having access to patients. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any patient without a clearance by the Department. Once the notarized application is completed the individual can only work under supervision until the individual has been fingerprinted. The individual must have his fingerprints submitted to the Department within twenty-one (21) days of completion of the notarized application. (10-1-07)T

010. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (10-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (10-1-07)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (10-1-07)T

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (10-1-07)T

06. Division of Medicaid. The Department's Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (10-1-07)T

07. Licensing and Survey Agency. The Department's Licensing and Survey Agency, 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (10-1-07)T

08. Licensing and Survey Agency Website. <http://www.facilitystandards.idaho.gov>. (10-1-07)T

00511. -- 019. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~996. ADMINISTRATIVE PROVISIONS.~~

~~Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-93)~~

~~997. CONFIDENTIALITY OF RECORDS.~~

~~Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (7-1-93)~~

~~998. INCLUSIVE GENDER AND NUMBER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)~~

~~999. SEVERABILITY.~~

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.07, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (7-1-93)~~

996. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0702

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and is also adopting this rule as a temporary rule. The action is authorized pursuant to Sections 56-202(b), and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule.

These rules were amended in response to 2007 legislation which rejected certain subsections of rules relating to eligibility criteria for mental health services for children and adults. This rule change establishes the eligibility criteria for the Enhanced Plan mental health services to facilitate the appropriate placement of qualified participants with services that match their health needs.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule was published in the April 4, 2007, Idaho Administrative Bulletin, Vol. 07-4, pages 15 through 18. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the June 7, 2007, Idaho Administrative Bulletin, Vol. 07-6, pages 69 through 73.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no anticipated fiscal impact as this rule conforms the eligibility criteria with the 2006 House Concurrent Resolution 48. Current budget appropriations for these services were based on this legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule or temporary rule, contact Pat Guidry, (208) 364-1813.

DATED this 26th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036

(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

DOCKET NO. 16-0310-0702 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-6, June 7, 2007, pages 69 through 73.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED (ICF/MR)
DOCKET NO. 16-0311-0701 (FEE RULE)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. This action is authorized pursuant to Sections 39-1303a, 39-1307, 56-202(b), 56-1004A, and 67-6532, Idaho Code and in response of the conclusion of a pilot project for criminal history checks in long-term care settings.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 11, 2007 at 6:00 p.m.
Department of Health and Welfare
1720 Westgate Drive
Suite D, Room 119, Boise, Idaho

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) participate in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expire on September 30, 2007.

In order to protect vulnerable adults living in ICFs/MR, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. Checks conducted by other entities at a minimum, must:

1. Be fingerprint-based; and
2. Include a search of specified sources for criminal history and background records.

This rule change states when an individual is available to work and provides other requirements necessary to complete a criminal history and background check.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)a, and b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Under Section 56-1004A(9), Idaho Code, the federal pilot project to conduct criminal history and background checks in long-term care settings expires September 30, 2007. These rules are being promulgated to continue requiring these checks to protect vulnerable adults and children in long-term care facilities.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Applicants are responsible for the cost of the criminal history and background check under Section 56-1004A(5), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state general fund. The criminal history and background checks are paid for by applicants to cover Department costs for the checks.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 6, 2007, Vol. 07-6, page 74.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0311-0701

000. LEGAL AUTHORITY.

The Idaho Legislature has ~~vested authority in~~ given the Department and the Board of Health and Welfare the authority to adopt rules for the operation in the state of Idaho of “Intermediate Care Facilities” for the treatment of mental retardation and related conditions, ~~pursuant to~~ under Sections 39-1303a, 39-1307, and 67-6532, Idaho Code, ~~and consistent with rules and regulations issued by the U.S. Department of Health, Education and Welfare. (For the purpose of determining applicable zoning restrictions, refer to Sections 67-6530 through 67-6532, Idaho Code, (12-31-91)(10-1-07)T~~ apply. (10-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

005. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 008 and 010 of these rules. (10-1-07)T

006. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (10-1-07)T

007. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter of rule. (10-1-07)T

008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records."

(10-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure.

(10-1-07)T

03. Disclosure of Resident Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure.

(10-1-07)T

04. Public Availability of Deficiencies. The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Survey Agency Web site.

(10-1-07)T

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. An intermediate care facility for the treatment of individuals with mental retardation must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the intermediate care facility. A Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be accepted provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee.

(10-1-07)T

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be a fingerprint-based criminal history and background check that includes a search of the following record sources:

(10-1-07)T

a. Federal Bureau of Investigation (FBI);

(10-1-07)T

b. Idaho State Police Bureau of Criminal Identification;

(10-1-07)T

c. Sexual Offender Registry;

(10-1-07)T

d. Office of Inspector General List of Excluded Individuals and Entities; and

(10-1-07)T

e. Nurse Aide Registry.

(10-1-07)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident.

(10-1-07)T

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire.

(10-1-07)T

05. New Criminal History and Background Check. An individual must have a criminal history and background check when:

(10-1-07)T

a. Accepting employment with a new employer; and

(10-1-07)T

b. His last criminal history and background check was completed more than three (3) years prior to his date of hire.

(10-1-07)T

06. Use of Criminal History Check Within Three Years of Completion. Any employer may use a previous criminal history and background check obtained under these rules if: (10-1-07)T

a. The individual has received a criminal history and background check within three (3) years of his date of hire: (10-1-07)T

b. The employer has documentation of the criminal history and background check findings: (10-1-07)T

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and (10-1-07)T

d. No disqualifying crimes are found. (10-1-07)T

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within the three (3) years of his date of hire. (10-1-07)T

010. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (10-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (10-1-07)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (10-1-07)T

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (10-1-07)T

06. Division of Medicaid. The Department's Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (10-1-07)T

07. Licensing and Survey Agency. The Department's Licensing and Survey Agency, 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (10-1-07)T

08. Licensing and Survey Agency Website. <http://www.facilitystandards.idaho.gov>. (10-1-07)T

00511. -- 049. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

701. -- 9959. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings." (12-31-91)

997. ~~CONFIDENTIALITY.~~

~~Information received by the Department from field reports and inspections is subject to the provisions of Section 39-1310, Idaho Code, and Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, Subsections 011.01. through 011.02, "Use and Disclosure of Department Records."~~ (12-31-91)

998. ~~INCLUSIVE GENDER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (7-1-80)

999. ~~SEVERABILITY.~~

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.11, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~ (7-1-80)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.15 - RULES AND MINIMUM STANDARDS GOVERNING SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITIES FOR THE DEVELOPMENTALLY DISABLED OR MENTALLY ILL

DOCKET NO. 16-0315-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. This action is authorized pursuant to Sections 39-4605, 56-1004A, and 56-1005(8), and 66-317, Idaho Code, in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 11, 2007 at 6:00 p.m.
Department of Health and Welfare
1720 Westgate Drive
Suite D, Room 119, Boise, ID

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, semi-independent group residential facilities for the developmentally disabled or mentally ill participate in a pilot project for criminal history and background checks for workers who have access, or provide care to residents living in semi-independent group residential facilities. The pilot project and federal funding for these checks expire on September 30, 2007.

In order to protect these individuals living in semi-independent group residential facilities for the developmentally disabled and mentally ill, the Department has decided to continue to require the criminal history and background checks for individuals with access to residents. These rules are being amended to require these checks.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)a, and b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Under Section 56-1004A(9), Idaho Code, the federal pilot project to conduct criminal history and background checks in long-term care settings expires September 30, 2007. These rules are being promulgated to continue requiring these checks to protect vulnerable adults and children in long-term care facilities.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Applicants are responsible for the cost of the criminal history and background check under Section 56-1004A(5), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state general fund. The criminal history and background checks are paid for by applicants to cover Department costs for the checks.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The

Negotiated Rulemaking Notice was published in the Idaho Administrative Bulletin, June 6, 2007, Vol. 07-6, page 75.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor,
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0315-0701

000. LEGAL AUTHORITY.

Under authority vested in The Idaho Legislature has given to the Board of Health and Welfare by Title 39, Chapter 46, under Sections 39-4605 and by Title 66, Chapter 3, Section 66-317(g), Idaho Code, the following rules are hereby authority to adopted rules for semi-independent group residential facilities in the state of Idaho.

(12-31-91)(10-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

004. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 007 and 008 of these rules.

(10-1-07)T

005. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

(10-1-07)T

006. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter of rule.

(10-1-07)T

007. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho.

(10-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036.

(10-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at

450 West State Street, Boise, Idaho 83702. (10-1-07)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (10-1-07)T

05. Internet Website. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. (10-1-07)T

06. Division of Medicaid. The Department's Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (10-1-07)T

07. Licensing and Survey Agency. The Department's Licensing and Survey Agency, 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (10-1-07)T

08. Licensing and Survey Agency Website. http://www.facilitystandards.idaho.gov. (10-1-07)T

008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (10-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (10-1-07)T

03. Disclosure of Resident Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure. (10-1-07)T

04. Public Availability of Deficiencies. The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Survey Agency Web site. (10-1-07)T

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department's Criminal History and Background Check. A semi-independent group residential facility for the developmentally disabled or mentally ill must comply with IDAPA 16.05.06, "Criminal History and Background Checks." (10-1-07)T

02. Direct Patient Access Individuals. These rules apply to employees and contractors hired or contracted with after October 1, 2007, who have direct patient access. (10-1-07)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must complete an application before having access to patients. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any patient without a clearance by the Department. Once the notarized application is completed the individual can only work under supervision until the individual has been fingerprinted. The individual must have his fingerprints submitted to the Department within twenty-one (21) days of completion of the notarized application. (10-1-07)T

00410. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

801. -- 9959. (RESERVED).

~~996. ADMINISTRATIVE PROVISIONS.~~

~~Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~ (12-31-91)

~~997. CONFIDENTIALITY.~~

~~Before any information about a patient, client, registrant, applicant, or recipient contained in Departmental records can be released to the person himself, to another Departmental unit, to another governmental agency or to a private individual or organization, the unit of the Department with custody of the record must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records."~~ (3-15-85)

~~998. INCLUSIVE GENDER.~~

~~For the purposes of this chapter, words used in the masculine gender include the feminine, and vice versa, where appropriate.~~ (3-15-85)

~~999. SEVERABILITY.~~

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.15, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~ (3-15-85)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO
DOCKET NO. 16-0322-0701 (FEE RULE)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. This action is authorized pursuant to Sections 39-3305, 56-1004A, and 56-1005(8), Idaho Code, and in response of the conclusion of a pilot project for criminal history checks in long-term care settings.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 11, 2007 at 6:00 p.m.
Department of Health & Welfare
1720 Westgate Drive
Suite D, Room 119, Boise, ID

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, residential care and assisted living facilities participate in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expire on September 30, 2007.

In order to protect vulnerable adults living in residential care or assisted living facilities, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. Checks conducted by other entities at a minimum, must:

1. Be fingerprint-based; and
2. Include a search of specified sources for criminal history and background records.

This rule change states when an individual is available to work and provides other requirements necessary to complete a criminal history and background check.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)a, and b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Under Section 56-1004A(9), Idaho Code, the federal pilot project to conduct criminal history and background checks in long-term care settings expires September 30, 2007. These rules are being promulgated to continue requiring these checks to protect vulnerable adults and children in long-term care facilities.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Applicants are responsible for the cost of the criminal history and background check under Section 56-1004A(5), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state general fund. The criminal history and background checks are paid for by applicants to cover Department costs for the checks.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 6, 2007, Vol. 07-6, page 76.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor,
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0322-0701

007. -- 0098. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential care or assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the residential care or assisted living facility. The Department check conducted under IDAPA 16.05.06, “Criminal History and Background Checks,” satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (10-1-07)T

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (10-1-07)T

- a. Federal Bureau of Investigation (FBI);** (10-1-07)T
- b. Idaho State Police Bureau of Criminal Identification;** (10-1-07)T
- c. Sexual Offender Registry;** (10-1-07)T
- d. Office of Inspector General List of Excluded Individuals and Entities; and** (10-1-07)T
- e. Nurse Aide Registry.** (10-1-07)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (10-1-07)T

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (10-1-07)T

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (10-1-07)T

a. Accepting employment with a new employer, and (10-1-07)T

b. His last criminal history and background check was completed more than three (3) years prior to his date of hire. (10-1-07)T

06. Use of Previous Criminal History and Background Check. Any employer may use a previous criminal history and background check obtained under these rules if: (10-1-07)T

a. The individual has received a criminal history and background check within three (3) years of his date of hire; (10-1-07)T

b. The employer has documentation of the criminal history and background check findings; (10-1-07)T

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and (10-1-07)T

d. No disqualifying crimes are found. (10-1-07)T

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of his date of hire. (10-1-07)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS**

DOCKET NO. 16-0501-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 9-340(B), 39-242, 39-5403, 56-221, 56-222, 56-1003 and 56-1004, Idaho Code; and 45 CFR 164.502(g)(4).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The following changes are being made in this rulemaking:

1. The list of individuals whose identity must not be disclosed because they have reported concerns about the Department's responsibilities is being expanded to include individuals who may report concerns about certified family homes.
2. Individuals and organizations licensed by the Department are being added to the list of exceptions to requirements for authorizations.
3. The list of law enforcement personnel (coroners, medical examiners, funeral directors, or personal representatives) who have access to the records of decedents is being revised to include the purpose for which they may use the disclosed information.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no fiscal impact to the general fund due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule change is being made due to an amendment to Idaho Code and in order to align the rule with federal code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeanne Goodenough, Division Chief, Deputy Attorney General at (208) 334-5537.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 31st day of July, 2007.

Sherri Kovach, Program Supervisor
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THE FOLLOWING IS THE TEXT OF DOCKET 16-0501-0701

051. AUTHORIZATION FOR THE USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.

An authorization for the use and disclosure of ~~health and other~~ confidential information must be in writing, and identify the individual who is the subject of the record. ~~(3-20-04)~~()

01. Content of Authorization. An authorization must be dated and signed by the individual or legal representative, and: (3-20-04)

a. Identify the specific information involved; (3-20-04)

b. State the duration of the authorization, defined by a specific date or the description of an event; (3-20-04)

c. Identify the recipient of the information; and ~~(3-20-04)~~()

d. State the purpose for the authorization; or state that it is, "At the request of the individual," or similar wording. ~~(3-20-04)~~()

~~**e.** Specify any restrictions on use or disclosure of the information; and~~ ~~(3-20-04)~~

~~**f.** Provide for revocation of the authorization.~~ ~~(3-20-04)~~

02. Defective Authorization. An authorization must not be acted upon if the authorization has expired or has been revoked, or if any essential information is omitted or is false. (3-20-04)

03. Authorization for the Use and Disclosure of Health Information. An authorization for the use and disclosure of health information must contain the content listed in Subsection 051.01 and the statements required by 45 CFR 164.508(c)(2). ()

034. Psychotherapy Notes. Psychotherapy notes that are separate from the rest of an individual's record may not be used or disclosed without an authorization except to the originator of the notes for treatment or to defend the Department in a legal action brought by the individual. (3-20-04)

045. Revocation of an Authorization. An individual or legal representative may revoke an authorization at any time by submitting a written request at any Department office. (3-20-04)

056. Effect on Benefits and Services. An individual's refusal to provide an authorization does not affect the receipt of benefits or services the individual would otherwise receive. (3-20-04)

067. Copy of Authorization. The Department will provide a copy of the signed authorization to the individual or legal representative. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

075. USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.

Without a consent or an authorization, no one may use or disclose health or other confidential information except as provided in Section 100 of this chapter. With a consent or an authorization, confidential information will be used or disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the Department's business and the provision of benefits or services, subject to law and the exceptions listed in these rules. Recipients of information must protect against unauthorized disclosure or use of the information for purposes that are not specified

in a consent or an authorization. Access to an individual's own records is governed by Section 125 of this chapter. Specific consent and disclosure requirements are identified in Sections 200 through 283 of these rules. (3-20-04)

01. Identity. Any individual who requests to review, copy, restrict or amend confidential information, or to sign an authorization, must provide verification of identity, and where appropriate, present proof that the individual is a legal representative of the subject of the record. Except for verifications or requests for certified copies of vital records, requests submitted by mail must be notarized if necessary to identify the individual's signature. (3-20-04)

02. Order of Court or Hearing Officer. If information is subpoenaed in a civil, criminal or administrative action, the Department will provide such information as would be disclosed with a public records request, without an order from the court or hearing officer. Alternatively, the Department may submit the record with a request for a review solely by the judge or hearing officer, and an order appropriately limiting its use by the parties. If Department staff have reason to believe that release of a record through a public records request may be detrimental to any individual, the Department may seek a protective order. (3-20-04)

03. Referent. Unless the individual is a witness in litigation, identifying information must not be disclosed about an individual who reported concerns relating to any Department ~~function~~ responsibility, including: ~~(3-20-04)~~()

a. Fraud; (3-20-04)

b. Abuse, neglect or abandonment of a child; (3-20-04)

c. Abuse, neglect or abandonment of a vulnerable adult; ~~and~~ ~~(3-20-04)~~()

d. Concerns about the mental health of another; ~~and~~ ~~(3-20-04)~~()

e. Certified family homes, unless the complainant consents to disclosure in writing or disclosure is required in any administrative or judicial proceeding, in compliance with Section 9-340B(16), Idaho Code. ()

04. Collateral Contact. Identifying information must not be disclosed about individuals who are not the subject of the record and who provide information to the Department in the ordinary course of business. (3-20-04)

05. Alternative Communication. The Department, contractors and providers must comply with an individual's request that confidential information be communicated by alternative means of delivery unless it is administratively difficult to do so or the request is unreasonable. If approved, all information from a Department program will use the same alternative means of delivery after the request is received and recorded. (3-20-04)

06. Restriction on Disclosure of Health Information. (3-20-04)

a. An individual may request in writing that use or disclosure of health information be restricted. The Department will respond in writing, and may deny the request if: (3-20-04)

i. Disclosure is required; (3-20-04)

ii. Necessary for the safety of the individual or others; (3-20-04)

iii. Necessary for the provision of services, benefits or payment; or (3-20-04)

iv. The restriction is unreasonable. (3-20-04)

b. The uses and disclosures of confidential information are subject to a restriction after it is received and recorded by the Department. Department employees, contractors, and the individual may request the Department to terminate the restriction. The Department will notify the individual of its response to a request to terminate a restriction. (3-20-04)

07. Discovery. Records will be provided only in response to valid discovery in any federal or state criminal, civil or administrative proceeding, as required by the Public Records Act, Section 9-343(3), Idaho Code. (3-20-04)

~~**08. "Do Not Re-Release" Records.** If the Department receives health information that is marked "Do not re-release," that information will not be disclosed except to the subject of the record or legal representative, if allowed by these rules or applicable law. (3-20-04)~~

076. -- 099. (RESERVED).

100. EXCEPTIONS TO REQUIREMENT FOR AUTHORIZATION.

Confidential information will be released without an authorization to individuals and entities in compliance with a court order, or if they are legally authorized to receive it. The following are exceptions to the requirement for an authorization: (3-20-04)

01. Advocates and Guardians. Federally-recognized protection and advocacy agencies or duly appointed guardians ad litem have access to an individual's file as necessary to perform their legal functions. Guardians ad litem have access to records as provided in Section 16-1623, Idaho Code, except for: (3-20-04)

a. Drug abuse and sickle cell anemia records maintained by the Veteran's Administration (VA), as required by 38 USC Section 7332; (3-20-04)

b. Claims under laws administered by the VA as required by 38 USC Section 3301; and (3-20-04)

c. Drug abuse prevention programs that receive federal assistance, as required by 42 USC Section 290ee - 3. (3-20-04)

~~**02. Police Functions.** Police officers and sheriffs are entitled to receive confidential information for the purpose of conducting an investigation, or to determine whether to place an individual in protective custody, subject to limitations regarding substance abuse treatment. **Licensure.** In compliance with Section 9-340C(9), Idaho Code, records will be released if they are part of an inquiry into an individual's or organization's fitness to be granted or retain a license, certificate, permit, privilege, commission or position. These records will otherwise be provided in redacted form as required by law or rule. (3-20-04)()~~

03. Fugitives and Missing Persons. (3-20-04)

a. A state or local law enforcement officer may receive the current address of any cash assistance recipient who is a fugitive felon, in compliance with Section 56-221, Idaho Code. (3-20-04)

b. The following health information may be disclosed to a law enforcement officer for the purpose of identifying or locating a suspect, fugitive, material witness or missing person: (3-20-04)

i. Name and address; (3-20-04)

ii. Date and place of birth; (3-20-04)

iii. Social security number; (3-20-04)

iv. Blood type and rh factor; (3-20-04)

v. Type of injury; (3-20-04)

vi. Date and time of treatment or death, if applicable; and (3-20-04)

vii. Distinguishing physical characteristics. (3-20-04)

- c. DNA, dental records, or typing, samples or analysis of body fluids or tissue must not be disclosed. (3-20-04)
- 04. Duty to Warn or Report.** Confidential information may be released without an authorization if necessary under a legal duty to warn or to report. (3-20-04)
- 05. Department Business, Monitoring and Legal Functions.** Department employees and contractors may use and disclose records as necessary to perform normal business functions, including health treatment, audit and quality improvement, investigation of fraud and abuse, establishment of overpayments and recoupment, public health, or other functions authorized by law. Information will be made available to state and federal auditors and compliance monitors. Confidential information will be provided to counsel as needed to evaluate, prepare for and represent the Department in legal actions. (3-20-04)
- 06. Emergencies.** Confidential information may be disclosed to qualified medical personnel to the extent necessary to respond to a medical emergency that requires immediate attention. (3-20-04)
- 07. Multidisciplinary Staffing.** Confidential information may be disclosed to employees of the Department, law enforcement, and other appropriate individuals to participate in a multidisciplinary team evaluation of child protection cases under Section 16-1609A, Idaho Code, or interdisciplinary Department staffing of services for an individual. All individuals who participate in such staffing must not redisclose the information and must comply with any other pertinent statute, rule or regulation. (3-20-04)
- 08. Collaborative Staffing.** Confidential information may be disclosed in staffing by the Department and other individuals or entities if all participants are involved with the same or similar populations and have an equal obligation or promise to maintain confidentiality. Disclosure of information in inter-agency staffing must be necessary to coordinate benefits or services, or to improve administration and management of the services. Confidential information may be disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the staffing. All individuals who participate in such staffing must not redisclose the information except in compliance with any other pertinent statute, rule or regulation. (3-20-04)
- 09. Elected State Official.** As provided by Section 16-1623(f), Idaho Code, any duly elected state official carrying out his official functions may have access to child protection records of the Department, and must not redisclose the information. (3-20-04)
- 10. Child Protection Agency.** A legally mandated child protection agency may provide information necessary to investigate a report of known or suspected child abuse or neglect, or to treat a child and family who are the subjects of the record. (3-20-04)
- 11. Legally Authorized Agency.** An agency will be provided appropriate information if the agency is legally responsible for or authorized to care for, treat or supervise a child who is the subject of the record. (3-20-04)
- 12. Informal Representatives.** Informal representatives may be permitted to receive and deliver information on behalf of an individual, and may be given health information if the informal representative is directly involved with the individual's care. Confidential information may be withheld in whole or part if professional staff determines that disclosure is not in the best interest of the individual, based on the circumstances and their professional judgement. The Department will not disclose information that is prohibited from being disclosed by these rules or any other legal requirement. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

125. ACCESS TO AN INDIVIDUAL'S OWN RECORD.

An individual who is at least fourteen (14) years old, or a legal representative, may review and obtain a copy of Department records that pertain to the individual, subject to the exceptions listed in Subsections 125.01 through 125.04 of these rules. Requests must be in writing, identifying the individual whose record is sought, and the record

or information requested. The principles of disclosing only minimally necessary information on a need-to-know basis do not apply to a request for an individual's own records. The following information must not be disclosed:

(3-20-04)

01. Children's Mental Health. Records of a child's mental health services must not be disclosed to the child when a physician or other mental health professional has noted that disclosure would be damaging to the child, unless access is ordered by a court according to Section 16-2428, Idaho Code. (3-20-04)

02. Legal Action. No disclosure will be made to an individual of information compiled in an ongoing investigation, that is exempt from disclosure, or that relates to adoption. Information compiled in reasonable anticipation of litigation that is not otherwise discoverable must not be disclosed. Information compiled for use in a civil, criminal, or administrative proceeding to which the individual is a party must not be disclosed except in compliance with valid discovery. (3-20-04)

03. Clinical Laboratories. There will be no disclosure of information maintained by a clinical laboratory except as authorized by the provider who ordered the test or study, in compliance with 42 USC 263a. (3-20-04)()

04. Confidential Information. Health and other confidential information will not be disclosed to the individual if a licensed professional in an appropriate discipline determines that disclosure is likely to endanger the life or physical safety of the individual or another person. Disclosure to a legal representative will be denied if there is a professional determination that access by the representative is likely to cause substantial harm to the subject of the record or another person. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

190. RECORDS OF DECEDENTS.

Records of decedents are confidential for as long as the Department maintains the records, except as needed by: coroners or medical examiners, funeral directors, and law enforcement if there is suspicion that the death was the result of criminal conduct. While records are maintained, the same confidentiality requirements apply to the personal representative of the estate or other legal representative of the deceased individual. (3-20-04)()

01. Law Enforcement. If there is suspicion that the death was the result of criminal conduct. ()

02. Coroners and Medical Examiners. Information may be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. ()

03. Funeral Directors. Confidential information may be given to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary to carry out their duties, confidential information may be disclosed to funeral directors prior to and in reasonable anticipation of the individual's death. ()

04. Personal Representatives. While records are maintained, the same confidentiality requirements apply to the personal representative of the estate or other legal representative of the deceased individual. Information may be disclosed to such representatives only to the extent necessary to perform their legal function. ()

(BREAK IN CONTINUITY OF SECTIONS)

210. CHILD PROTECTION.

Unless allowed by these rules or other provision of law, the Department will disclose information from child protection records in its possession upon a court order obtained in compliance with Subsection 075.02 of these rules.

Disclosure of Department records under the Child Protective Act is governed by Section 16-162~~39~~(~~f~~6), Idaho Code. Court records of Child Protective Act proceedings are governed by Section 16-162~~46~~, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106 and 45 CFR 134.20. Information regarding child fatalities or near fatalities is required to be made public by 42 USC 5106a(b)(2)(A)(~~ix~~). (~~3-20-04~~)()

(BREAK IN CONTINUITY OF SECTIONS)

230. MEDICAL CARE.

Consent to apply for services or treatment is governed by Chapter 4~~35~~, Title 39, Idaho Code, for hospital, medical, dental or surgical care, treatment or procedure. (~~3-20-04~~)()

(BREAK IN CONTINUITY OF SECTIONS)

242. SPECIFIC REQUIREMENTS - PROTECTION AND ADVOCACY AGENCIES.

A protection and advocacy system for individuals who have a developmental disability is created by 42 USC 15042 et seq.; for individuals with mental illness, by 42 USC 10801. Advocacy for adult protection is governed by Sections 39-5307 and 39-5308, Idaho Code. ()

24~~3~~. -- 249. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS

DOCKET NO. 16-0506-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized under Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the Idaho Administrative Bulletin, January 3, 2007, Vol. 07-1, pages 228 and 229.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. The following is a specific description of the fee or charge imposed or increased: Criminal history checks cost the applicant a fee that under statute is required to be paid by the applicant.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. The fiscal impact of the repeal of the chapter is the same as Docket 16-0506-0602 published in this bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rules, contact Mond Warren at (208) 334-5997.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
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DOCKET NO. 16-0506-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-1, January 3, 2006, pages 228 and 229.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.05 - CRIMINAL HISTORY AND BACKGROUND CHECKS IN LONG-TERM CARE SETTINGS

DOCKET NO. 16-0505-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-1004A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: These rules were adopted by the Department to participate in a federal grant pilot project for criminal history and background checks in long-term care settings. The pilot project and grant money that cover the costs for these criminal history and background checks expire on September 30, 2007. These rules are no longer needed and are being repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: These rules are no longer necessary, because of the salutary expiration of the long-term care pilot project in Section 56-1004A, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. The fiscal impact of the repeal of this chapter is cost neutral. Federal grant money is no longer available, but the cost of a criminal history and background check is required to be paid for by the applicant under Section 56-1004A, Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the expiration of the federal grant and pilot project that these rules governed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mond Warren at (208) 334-5997.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 26, 2007.

DATED this 16th day of July, 2007.

Sherri Kovach, Program Supervisor
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IDAPA 16.05.05 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-0602 (CHAPTER REWRITE - FEE RULE)

NOTICE OF RULEMAKING

PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates for the amendments to the temporary rule are January 1, 2007, and October 1, 2007. This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. This action is authorized under Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text of the pending rule is being amended to add individuals in long-term care settings that were required to have criminal history and background checks through the federal pilot project which expires on September 30, 2007. The rules were also amended to update the list of individuals that are required to have checks under the Home and Community-Based Services (HCBS) in the Medicaid Enhanced Plan Benefits chapter. Other changes have been made to clarify that the Department may consider underlying facts and circumstances when making determinations on the results of the check.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department and Board have amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the January 3, 2007, Idaho Administrative Bulletin, Vol. 07-1, pages 231 through 245.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed under Section 56-1004A, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The 2006 Legislature enacted Section 56-1004A, Idaho Code that required an applicant to be responsible for the cost of a criminal history and background check. The rule defines the actual cost of the Department's check, which is \$48, and requires applicant to pay for the criminal history and background check.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The Department implemented new systems to increase the efficiency of processing background checks which reduces the administrative processing costs, however a study of background checks revealed the Department's current cost per check is \$48.00. The fee amount charged in the repealed chapter of rule was \$45. The fiscal impact of requiring the applicant to pay the actual cost for the check will result in a cost savings of \$22,900 with a general fund savings of \$11,450 for the fiscal year 2007.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rules, contact Mond Warren at (208) 334-5997.

DATED this 16th day of July, 2007.

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DOCKET NO. 16-0506-0602 - ADOPTION OF PENDING FEE RULE

There are substantive changes from the proposed rule text.
Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.
The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-1, January 3, 2006, pages 231 through 245.
This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0506-0602

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or program rules to complete a criminal history and background check. (1-1-07)T

01. Adoptive Parent Applicants. All persons applying to the Department or petitioning the court to be an adoptive parent and all adults in the home, except stepparents applying for adoption of a stepchild, as described in IDAPA 16.06.01 "Rules Governing Family and Children's Services and IDAPA 16.06.02, "Standards for Child Care Licensing." ~~(1-1-07)F(1-1-07)T~~

~~**02. Adult Day Care Providers.** Providers of adult day care and all adults in the home, if provided in a private residence as required by IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 705. (1-1-07)F~~

~~**032. Alcohol or Drug Abuse Prevention and Treatment Programs Serving Children.** Staff who have contact with adolescents in any alcohol/drug abuse treatment program which provides treatment for persons under the age of eighteen (18) as required by IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs," Section 020. (1-1-07)T~~

~~**043. Certified Family Homes.** Certified family home providers, all adults in the home, and substitute caregivers as required in Section 39-3520, Idaho Code, and IDAPA 16.03.19, "Rules Governing Certified Family Homes," Sections 009, 101 and 300, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T~~

054. Children's Residential Care Facilities. Owners, operators, and employees of all children's residential care facilities as required in Section 39-1210, Idaho Code. (1-1-07)T

065. Children's Therapeutic Outdoor Programs. Staff, volunteers, and interns working in Children's Therapeutic Outdoor Programs as defined in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Section 810. ~~(1-1-07)T~~(1-1-07)T

076. Commercial Non-Emergency Transportation Providers. Staff of commercial non-emergency transportation providers who have contact with participants as required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 009. (1-1-07)T

087. Developmental Disabilities Agencies. Employees, ~~subcontractors, agents, and volunteers,~~ of developmental disabilities agencies as required in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Section 009, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. ~~(1-1-07)T~~(1-1-07)T

098. Emergency Medical Services (EMS). Applicants for EMS certification as required in IDAPA 16.02.03, "Rules Governing Emergency Medical Services," Section 501. (1-1-07)T

09. Home and Community-Based Services (HCBS). Providers, employees, and contractors for home and community-based services as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (10-1-07)T

10. Home Health Agencies. Employees and contractors of home health agencies as required in IDAPA 16.03.07, "Home Health Agencies," Section 009. (10-1-07)T

11. Intermediate Care Facilities for the Mentally Retarded (ICF/MR). Employees and contractors of intermediate care facilities for the mentally retarded as required in IDAPA 16.03.11, "Intermediate Care Facilities for the Mentally Retarded (ICF/MR)," Section 009. (10-1-07)T

102. Licensed Foster Care. All foster care applicants and other adult members of the household as required in Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Standards for Child Care Licensing," Section 404. (1-1-07)T

143. Licensed Child Care. Applicants, owners, operators, employees, volunteers, and those over twelve (12) years of age who have unsupervised direct contact with the children of day care centers, group day care facilities and family day care homes as required in Section 39-1105, Idaho Code, and IDAPA 16.06.02, "Standards for Child Care Licensing," Section 300. (1-1-07)T

124. Mental Health Clinics. Mental health clinic's direct care staff as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009 and IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 009 and 714. (1-1-07)T

135. Personal Assistance Agencies. Staff of personal assistance agencies acting as fiscal intermediaries as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

146. Personal Care Service Providers. Providers of personal care services as required in Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

157. Psychosocial Rehabilitation Providers. Individuals providing psychosocial rehabilitation services as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 130. (1-1-07)T

~~**16. Residential Habilitation Providers.** Residential habilitation providers as required in IDAPA 16.04.17 "Rules Governing Residential Habilitation Agencies," Sections 202 and 301, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 705. (1-1-07)T~~

18. Residential Care or Assisted Living Facilities in Idaho. Employees and contractors of residential

care or assisted living facilities as required in IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." Section 009. (10-1-07)T

19. Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill. Employees and contractors of semi-independent group residential care facilities for the developmentally disabled or mentally ill as required in IDAPA 16.03.15, "Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill." Section 009. (10-1-07)T

~~17~~**20. Service Coordinators and Paraprofessional Providers.** Service coordinators and paraprofessionals working for an agency as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

21. Skilled Nursing and Intermediate Care Facilities. Employees and contractors of skilled nursing and intermediate care facilities as required in IDAPA 16.03.02, "Skilled Nursing and Intermediate Care Facilities." Section 009. (10-1-07)T

~~18~~**22. Support Brokers and Community Support Workers.** Support brokers and community support workers, as required in IDAPA 16.03.13, "Self-Directed Services," Section 009. (1-1-07)T

~~19-~~ **Long-Term Care Pilot Project Providers.** *Providers, employees, and contractors of long-term care facilities as required in IDAPA 16.05.05 "Criminal History and Background Checks in Long-Term Care Settings." The long-term care pilot project expires September 30, 2007.* (1-1-07)F

(BREAK IN CONTINUITY OF SECTIONS)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.

An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The application and fingerprinting must be completed in the time frame described in Section 150 of these rules. (1-1-07)T

01. Employees of Providers, Contractors, Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer or EMS Bureau as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Section 230 of these rules. The employer then determines whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (1-1-07)F(1-1-07)T

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (1-1-07)T

- a. Adoption or foster care applicants and adults in the home; (1-1-07)T
- b. Certification or licensure applicants; (1-1-07)T
- i. Certified family homes; (1-1-07)T
- ii. ~~Emergency Medical Services applicants and employees;~~ (1-1-07)F
- iii. Licensed child care providers; (1-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

200. UNCONDITIONAL DENIAL.

~~The Department will issue an unconditional denial within fourteen (14) days of the completion of a criminal history and background check.~~ An individual who receives an unconditional denial is not available to provide services, have access, or to be licensed or certified by the Department. ~~(1-1-07)F(1-1-07)T~~

01. Reasons for an Unconditional Denial Issuance. Unconditional denials are issued for disqualifying crimes described in Section 210 of these rules. (1-1-07)T

02. Issuance of an Unconditional Denial. The Department will issue an unconditional denial within fourteen (14) days of completion of a criminal history and background check. (1-1-07)T

03. Challenge of Department's Unconditional Denial. An individual has thirty (30) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with: The Criminal History Unit, 3268 Elder Street, Boise, ID 83705. (1-1-07)T

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 152. (1-1-07)T

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 152. (1-1-07)T

04. No Exemption Review. No exemption review, as described in Section 250 of these rules, is allowed for an unconditional denial. (1-1-07)T

~~025. Final Order. An unconditional denial is a~~ The Department's final order under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 152, may be appealed in District Court. No exemption review is allowed for an unconditional denial. ~~(1-1-07)F(1-1-07)T~~

~~03. Unconditional Denial Appeal. An appeal of an unconditional denial must be filed in District Court.~~ ~~(1-1-07)F~~

(BREAK IN CONTINUITY OF SECTIONS)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. (1-1-07)T

01. Disqualifying Crimes. The disqualifying crimes described in Subsections 210.01.a through 210.01.v. of these rules will result in an unconditional denial being issued. (1-1-07)T

a. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (1-1-07)T

b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803,

- and 18-805, Idaho Code; (1-1-07)T
- c.** Crimes against nature, as defined in Section 18-6605, Idaho Code; (1-1-07)T
 - d.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (1-1-07)T
 - e.** Incest, as defined in Section 18-6602, Idaho Code; (1-1-07)T
 - f.** Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (1-1-07)T
 - g.** Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (1-1-07)T
 - h.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (1-1-07)T
 - i.** Mayhem, as defined in Section 18-5001, Idaho Code; (1-1-07)T
 - j.** Murder in any degree, voluntary manslaughter, assault, or battery with intent to commit a serious felony, as defined in Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (1-1-07)T
 - k.** Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (1-1-07)T
 - l.** Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; (1-1-07)T
 - m.** Rape, as defined in Section 18-6101, Idaho Code; (1-1-07)T
 - n.** Robbery, as defined in Section 18-6501, Idaho Code; (1-1-07)T
 - o.** Felony stalking, as defined in Section 18-7905, Idaho Code; (1-1-07)T
 - p.** Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (1-1-07)T
 - q.** Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; (1-1-07)T
 - r.** Video voyeurism, as defined in Section 18-6609, Idaho Code; (1-1-07)T
 - s.** Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (1-1-07)T
 - t.** Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (1-1-07)T
 - u.** Any felony punishable by death or life imprisonment; or (1-1-07)T
 - v.** Attempt, conspiracy, or accessory after the fact, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying designated crimes. (1-1-07)T
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.l. of this rule: (1-1-07)T
- a.** Aggravated assault, as defined in Section 18-905, Idaho Code; (1-1-07)T
 - b.** Aggravated battery, as defined in Section 18-907(1), Idaho Code; (1-1-07)T
 - c.** Arson in the third degree, as defined in Section 18-804, Idaho Code; (1-1-07)T

- d.** Burglary, as defined in Section 18-1401, Idaho Code; (1-1-07)T
- e.** A felony involving a controlled substance; (1-1-07)T
- f.** Felony theft, as defined in Section 18-2403, Idaho Code; (1-1-07)T
- g.** Forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 and 18-3124, Idaho Code; (1-1-07)T
- h.** Forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (1-1-07)T
- i.** Grand theft, as defined in Section 18-2407(1), Idaho Code; (1-1-07)T
- j.** Insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (1-1-07)T
- k.** Public assistance fraud, as defined in Sections 56-227 and 56-227A, Idaho Code; or (1-1-07)T
- l.** Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying five (5) year crimes. (1-1-07)T

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (1-1-07)T

- a.** A withheld judgment; (1-1-07)T
- b.** A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (1-1-07)T
- c.** An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (1-1-07)T
- d.** A sealed record. (1-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on his record as described Subsections 230.01 and 230.02 of this rule. (1-1-07)T

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.f. of this rule: (1-1-07)T

- a.** A plea, finding, or adjudication of guilt to any felony or misdemeanor, or any crime other than a traffic violation, that does not result in a suspension of the individual's driver's license; (1-1-07)T
- b.** A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T
- c.** The Department determines there is a potential health and safety risk to vulnerable adults or children; (1-1-07)T

- d.** The individual has falsified or omitted information on the application form; (1-1-07)T
- e.** The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T
- f.** The Department determines additional information is required. (1-1-07)T

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.01.c. of this rule. (1-1-07)T

- a.** A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T
- b.** The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T
- c.** The Department determines additional information is required. (1-1-07)T

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (1-1-07)T

- a.** A withheld judgment; (1-1-07)T
- b.** A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (1-1-07)T
- c.** An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (1-1-07)T
- d.** A sealed record. (1-1-07)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES
DOCKET NO. 16-0601-0701
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections: 16-1629, 56-202(b), 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Monday, September 17, 2007 at 6:00 pm
DHW - Region I Office
1250 Ironwood, Conference Room
Coeur d'Alene, ID

Tuesday, September 18, 2007 at 6:00 pm
DHW - Region III Office
3402 Franklin Road
Caldwell, ID

Monday, September 17, 2007 at 6:00 pm
DHW - Region IV Office
1720 Westgate Drive
Suite D, Room 119, Boise, ID

Wednesday, September 19, 2007 at 6:00 pm
Human Development Center
421 Memorial Drive
Pocatello, ID

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department's Child Protection Central Registry contains the names of individuals for whom a report of child abuse, abandonment, or neglect has been substantiated by the Department. The purpose of the Central Registry is to aid the Department in protecting children from individuals who have previously abused, abandoned, or neglected children. Any individual who has a substantiated report in the Central Registry may be denied: (1) employment that involves direct care of children or vulnerable adults, (2) a license to provide child care or foster care, and (3) adoption of a child.

The names on the Central Registry are confidential and may only be released with written consent of the individual requesting a criminal history and background check. No information is released regarding the severity or type of child abuse or neglect.

Beyond the initial appeal process available to an individual newly-placed on the Central Registry, there is currently no provision in the rule for an individual to have his name removed from the registry. There is an exemption process that may "clear" a person to work, be licensed or adopt, but it does not remove the individual's name from the registry. This issue has resulted in numerous complaints from the public.

The Department is proposing rule changes that include a new system for classifying the level of risk to children posed by individuals with substantiated reports of abuse, abandonment, or neglect. The rule changes will also include a process for an individual on the Central Registry to request that the Department remove his name from the registry when the time period assigned to the individual's risk level has elapsed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to protect the public health, safety, or welfare.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general

fund greater than ten thousand dollars (\$10,000) during the fiscal year.

One-time costs projected to revise the Central Registry portions of the Department's child welfare information system known as FOCUS (Family-Oriented Community User System) are estimated at \$40,000; these costs would be covered using existing federal funds. A cost of \$30,000 to state general fund monies is estimated for contract or temporary staff resources to provide retrospective case-by-case reviews for those individuals currently on the registry who petition for removal.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are being made simply to reflect the revised business process for the Central Registry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Shirley Alexander at (208) 334-6618.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 26, 2007.

DATED this 11th day of July, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-0701

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-162~~39~~, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code. ~~(3-30-07)~~(10-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

550. CHILD PROTECTION SERVICES.

Sections 56-204A, 56-204B, 16-1601, 16-162~~39~~ and 16-2001, Idaho Code, make the Department an official child protection agency of state government dealing with a duty to intervene in situations of reported child ~~neglect~~, abuse, ~~or abandonment, or neglect~~. A respectful, non-judgmental approach should be the policy for assessments, especially during the initial contact with the family. Training in communication would include multicultural and diversity issues and interest-based conflict resolution. ~~(3-30-07)~~(10-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

560. DISPOSITION OF CHILD PROTECTION REPORTS.

Within five (5) days following completion of risk assessments, the Department ~~shall~~ will determine whether the reports are substantiated or unsubstantiated. ~~The substantiation of reports shall be determined using the following definitions, with consideration given to the age of the child, extenuating circumstances, prior history, parental attitude toward discipline, and severity of abuse or neglect: All persons who are the subject of a child protection risk assessment will be notified of the disposition of the assessment.~~ (5-3-03)(10-1-07)T

01. Substantiated. Child abuse, ~~and~~ abandonment, or neglect reports are ~~confirmed~~ substantiated by one (1) or more of the following: (5-3-03)(10-1-07)T

a. Witnessed by a family services worker, as defined in Section 011 of these rules; (5-3-03)(10-1-07)T

b. ~~Determined or evaluated by a~~ A court determines that a child comes within the jurisdiction of the Child Protective Act, Title 16, Chapter 16, Idaho Code; (3-30-01)(10-1-07)T

c. A confession; ~~or~~ (3-30-01)(10-1-07)T

d. Corroborated by physical or medical evidence; or (10-1-07)T

~~de. Validated through the presence of significant evidence that establishes a clear factual foundation for the determination of "substantiated."~~ Established by evidence that would lead a reasonable person to conclude, that it is more likely than not that abuse, abandonment, or neglect occurred. (5-3-03)(10-1-07)T

02. Unsubstantiated. Child abuse, ~~and~~ abandonment, or neglect reports ~~that cannot be found substantiated~~ are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule. For intradepartmental statistical purposes, the Department will indicate whether the unsubstantiated disposition of the risk assessment was due to: (5-3-03)(10-1-07)T

a. Insufficient evidence; or (5-3-03)

b. ~~Facts indicate that the report is~~ An erroneous or otherwise unfounded report. (5-3-03)(10-1-07)T

561. ~~SUBSTANTIATED REPORTS~~ CHILD PROTECTION CENTRAL REGISTRY.

~~For reports determined to be "substantiated," the appropriate information shall be entered into the Department's Central Registry for the reporting of child abuse, abandonment and neglect, and the alleged perpetrator so advised in writing. Notification will include how the individual can appeal to have the disposition status changed. The Department shall remove identifying information regarding a specific individual only when that individual has successfully appealed his name being placed on the Central Registry. The Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248, July 27, 2006, 120 Stat. 587, has directed the states to establish a central registry for the purpose of sharing information about persons who have substantiated reports of abuse, abandonment, or neglect against children. The Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. The primary purpose of the Child Protection Central Registry is to aid the Department in protecting children and vulnerable adults from individuals who have previously abused, neglected, or abandoned children. The Child Protection Central Registry maintained by the Department is separate and apart from the central registry for convicted sexual offenders maintained by the Idaho State Police under Title 18, Chapter 83, Idaho Code. The Child Protection Central Registry provisions in this chapter of rules apply to risk assessments conducted by the Department after October 1, 2007.~~ (5-3-03)(10-1-07)T

562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY.

The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual requesting a criminal history and background check, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, abandonment, or neglect. (10-1-07)T

563. SUBSTANTIATED REPORTS ON THE CHILD PROTECTION CENTRAL REGISTRY.

The name of an individual for whom an incident of abuse, abandonment, or neglect has been substantiated will be entered into the Child Protection Central Registry based on the designated level of risk. The level of risk will be determined by the severity and type of the abuse, abandonment, or neglect and the potential risk of future harm to a child. The highest level of risk is designated as Level One (1) and the lowest level of risk is Level Four (4). After an individual has been placed on the Child Protection Central Registry, the Department will notify him in writing that he has been placed on the registry, the risk level assigned and the basis for the Department's decision, the procedures for filing an appeal under IDAPA 16.05.03. "Rules Governing Contested Case Proceedings and Declaratory Rulings," and the procedures for filing a petition for removal from the Child Protection Central Registry in accordance with Section 564 of these rules. (10-1-07)T

01. Child Protection Level One. An individual with a Level One (1) designation has been determined to pose a high to severe risk to children. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One (1). (10-1-07)T

- a.** Sexual Abuse as defined in Section 16-1602(1)(b), Idaho Code; (10-1-07)T
- b.** Sexual Exploitation as defined in Sections 18-1506 and 18-1507, Idaho Code; (10-1-07)T
- c.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; (10-1-07)T
- d.** Neglect as described in Section 16-1602(25), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (10-1-07)T
- e.** Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (10-1-07)T
- f.** Death of a child; (10-1-07)T
- g.** Torture of a child as described in Section 18-4001, Idaho Code; (10-1-07)T
- h.** Aggravated Circumstances as described in Section 16-1619(6)(d), Idaho Code; or (10-1-07)T
- i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, abandonment, or neglect, each of which falls under the circumstances listed under Subsection 563.02 of this rule. (10-1-07)T

02. Child Protection Level Two. An individual with a Level Two (2) designation has been determined to pose a medium to high risk to children and will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten (10) year period, an individual may petition the Department to request his name be removed from the Child Protection Central Registry in accordance with Section 564 of these rules. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following will be given the designation of Level Two (2). (10-1-07)T

- a.** Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (10-1-07)T
- b.** Administering or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; (10-1-07)T
- c.** Child exposed to potentially dangerous; (10-1-07)T
- i.** Drug paraphernalia, as defined in Section 37-2701(n), Idaho Code; (10-1-07)T

ii. Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(r), Idaho Code; or (10-1-07)T

iii. Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (10-1-07)T

d. Failure to thrive caused by abuse, abandonment, or neglect, as established by medical evidence; (10-1-07)T

e. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, abandonment as described in Section 16-1602(2), Idaho Code, or neglect as described in Section 16-1602(25), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but may require medical or other treatment; (10-1-07)T

f. The restraint or confinement of a child that is potentially dangerous or poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (10-1-07)T

g. Medical neglect as described in Section 16-1602(25), Idaho Code, that is potentially dangerous or poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (10-1-07)T

h. Malnutrition as established by medical evidence; or (10-1-07)T

i. Occurrence of two (2) or more separate, substantiated incidents of abuse, abandonment, or neglect, each of which falls under the circumstances listed under Subsection 563.03 of this rule. (10-1-07)T

03. Child Protection Level Three. An individual with a Level Three (3) designation has been determined to pose a mild to medium risk to children and will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five (5) year period, an individual may petition the Department to request his name be removed from the Child Protection Central Registry in accordance with Section 564 of these rules. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following are given the designation of Level Three (3). (10-1-07)T

a. Lack of supervision that is potentially dangerous; (10-1-07)T

b. Failure to protect from abuse, abandonment, or neglect as described in Section 16-1602, Idaho Code, that is potentially dangerous; (10-1-07)T

c. Failure to discharge parental responsibilities described under Section 16-1602(23), Idaho Code, in situations that are potentially dangerous or pose a substantial risk of harm to the health, safety, welfare, or well-being of a child; or (10-1-07)T

d. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, or neglect as described in Section 16-1602(25), Idaho Code, that causes minor injuries or damage that does not require medical treatment. (10-1-07)T

04. Child Protection Level Four. An individual with a Level Four (4) designation has been determined to pose a low risk of future harm to children and will not be placed on the Child Protection Central Registry. Names of individuals who are substantiated for any of the following are given the designation of Level Four (4). (10-1-07)T

a. Mild physical neglect due to poverty issues, including no heat or utilities; (10-1-07)T

b. Minor injury of a child while parent was attempting to protect himself or another; (10-1-07)T

c. Unsanitary house with timely clean up; or (10-1-07)T

d. Circumstances in which parent(s) cannot safely provide for their child because the child poses a threat to the safety of the parent(s) or other children in the home and the parent(s) are actively working with the

Department or other agency to find a safe and appropriate placement solution for the child. (10-1-07)T

564. PETITIONING FOR REMOVAL FROM THE CHILD PROTECTION CENTRAL REGISTRY.

01. Petitioning for Removal From the Child Protection Central Registry. Any individual whose name appears on the Child Protection Central Registry, other than an individual with a Level One (1) designation, may, after the applicable minimum period of time has passed, petition to have his name removed from the Child Protection Central Registry. The petition must include a written statement from the petitioner to the Department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. The petition will be granted if: (10-1-07)T

a. There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, abandonment, or neglect in Idaho; and (10-1-07)T

b. There are no convictions, adjudications, or withheld judgments for the following crimes on the state's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code, or on the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, abandonment, or neglect in Idaho. It is the responsibility of the petitioner to request, pay for, and obtain these criminal history checks and submit them to the Department. (10-1-07)T

i. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition: (10-1-07)T

(1) Physical Assault; (10-1-07)T

(2) Battery; or (10-1-07)T

(3) A drug-related offense. (10-1-07)T

ii. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: (10-1-07)T

(1) Child abuse or neglect; (10-1-07)T

(2) Spousal abuse; (10-1-07)T

(3) A crime against children, including child pornography; or (10-1-07)T

(4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (10-1-07)T

02. Granting or Denying the Petition for Removal. The Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. (10-1-07)T

03. Appeal of a Denial for Petition for Removal. The individual may file an appeal from the denial of removal of his name from the Child Protection Central Registry under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." (10-1-07)T

04. Petition for Removal of Individuals on the Child Protection Central Registry Prior to October 1, 2007. After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have his name removed from the registry in accordance with Subsection 564.01 of this rule. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to see if it meets the requirements for removal. (10-1-07)T

5625. ~~REGISTRY~~ "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.

No disposition will be made on the parent(s) and no information will be entered into the ~~IDHW Central Registry~~ Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to ~~Section 39-8201~~ Title 39, Chapter 82, Idaho Code, Idaho Safe Haven Act.

~~(5-3-03)~~(10-1-07)T

563. ~~UNSUBSTANTIATED REPORTS.~~

~~If it is determined through the risk assessment that a report is "unsubstantiated," the family shall also be advised. Upon the individual's request, the field office shall issue written statements indicating that:~~

~~(5-3-03)~~

01. ~~Insufficient Information.~~ ~~The Department has not obtained sufficient information to warrant further assessment of or action on that specific report; and~~

~~(5-3-03)~~

02. ~~Further Reports.~~ ~~The Department shall fulfill its legal responsibility to investigate and take appropriate action on any further reports that elaborate on the previous allegations or relate new allegations.~~

~~(5-3-03)~~

5646. COURT-ORDERED CHILD PROTECTION RISK ASSESSMENT.

When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court ~~shall~~ may order that an investigation/risk assessment be conducted by the Department ~~of Health and Welfare~~. Court orders for preliminary child protective risk assessment and for any subsequent assessment the court may deem necessary ~~shall~~ will be served on the Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor ~~shall~~ must immediately initiate the risk assessment and consult with the court promptly if there are any obstacles proceeding its completion. Immediately upon completing the report, the Department ~~shall~~ must make a written report to the court.

~~(3-30-01)~~(10-1-07)T

5657. PETITION UNDER THE CHILD PROTECTIVE ACT.

If any incidence of child abuse, abandonment, or neglect, ~~or abandonment~~ is substantiated through an immediate safety or comprehensive assessment, or both, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department ~~must~~ will request the prosecuting attorney to file a Child Protective Act petition.

~~(3-30-07)~~(10-1-07)T

5668. COOPERATION WITH LAW ENFORCEMENT.

The Department ~~must~~ will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings.

~~(3-30-07)~~(10-1-07)T

5679. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.

Where no other community resources are available and when ordered by the district courts, the Department will, for a fee of thirty-five dollars (\$35) per hour, conduct immediate safety and comprehensive assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child.

(3-30-07)

01. Requests From Private Attorney. If a parent's attorney requests an immediate safety or comprehensive assessment, or both, and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order.

(3-30-07)

02. Conduct of the Assessment. In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court.

(3-30-07)

03. Report to Court. The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the Department's format for the assessment of need. The report must describe what was observed about the home conditions and the care of the child(ren). (3-30-07)

04. Department Clients. If the family is or has been a client of the Department, disclosure of information must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Protection of Department Records." (3-30-07)

~~56870.~~ -- 639. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.01 - TITLE INSURANCE DEFINITION OF TRACT INDEXES AND ABSTRACT RECORDS

DOCKET NO. 18-0101-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-2705, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes are intended to clarify that only the geographic index is required to be complete from inception of title from the United States of America, while the name index (grantor/grantee index), which must include all instruments, proceedings and matters of record that affect title, is not required to be complete from inception of title. The changes also include the addition of new sections to comply with administrative rule style requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change in rule was requested by the title industry (the group that will be affected by the changes) and the proposed changes to the rule were accomplished in consultation with title industry representatives.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dale Freeman at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 7th day of August, 2007.

Dale Freeman
Insurance Financial Examiner
Idaho Department of Insurance
700 West State St, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0101-0701

000. LEGAL AUTHORITY.

This Rule is promulgated pursuant to the general rule making authority in Idaho Code, Section 41-211, to aid in the effectuation of Idaho Code, Section 41-2702. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.01, "Title Insurance Definition of Tract Indexes and Abstract Records." ()

02. Application of Rule. The provisions of this rule shall apply to all title insurers and title insurance agents. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Section 41-2702, Idaho Code. ()

03. Purpose. The purpose of this Rule is to define and clarify the meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(1)(v), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General - General Provisions. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. ()

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 010. (RESERVED).

011. TRACT INDEXES OR ABSTRACT RECORDS.

For clarification and guidance, the following is considered to be the correct definition or meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code: "A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained, ~~such set of indexes to be complete from the inception of title from the United States of America.~~" (7-1-93)()

01. Basic Component Parts. The basic component parts of such a set of indexes are: (7-1-93)

a. An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: (7-1-93)(____)

i. All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and (7-1-93)

ii. All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 012.01.b. below. (7-1-93)

iii. No requirement is hereby made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. (7-1-93)

b. A name index or indexes wherein notations of or references to all instruments, proceedings and other matters of record in the particular county which legally affects or may legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named therein and affected thereby, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. (7-1-93)

02. Index Maintenance. The indexes prescribed in Subsection 012.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (7-1-93)

03. Subdivision or Refinement. The extent to which the prescribed indexes shall be subdivided or refined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination. (7-1-93)

04. Discarding or Destroying. Any requirement set forth in this rule to the contrary notwithstanding, it shall be permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner's title insurance issued thereon. The discarding and destruction of prescribed index components herein provided for is applicable only when a permanent copy of the search notes, examiner's opinion and issued policy is retained in lieu of the discarded and destroyed index components. (7-1-93)

013. SEVERABILITY.

If any provision of this Rule is for any reason held to be invalid, the remainder of the Rule shall not be affected thereby. (7-1-93)

0134. -- 999. (RESERVED).

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.03 - MILITARY SALES PRACTICES RULE

DOCKET NO. 18-0103-0701 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 5, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1302, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule identifies specific methods and practices used in selling life insurance and annuity products to active duty military personnel that will be considered dishonest, unfair, deceptive or predatory for purposes of Section 41-1302, Idaho Code. This rule is a model rule developed by the National Association of Insurance Commissioners to comply with the federal Military Personnel Financial Services Act, which called for states to adopt uniform rules to protect military personnel from abusive sales practices for certain types of insurance products.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule is necessary to comply with changes to state and federal law and will confer a public benefit by protecting active duty military personnel from abusive and predatory insurance sales practices.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This rulemaking does not impose any fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact to the general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is a model rule developed by the NAIC after public meetings involving industry and other affected parties. It is being adopted to comply with a federal law calling on states to adopt uniform standards governing insurance sales to military personnel.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Shad Priest at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 9th day of August, 2007.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State Str, 3rd Floor, Boise, Idaho 83720-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0103-0701

IDAPA 18
TITLE 01
CHAPTER 03

18.01.03 - MILITARY SALES PRACTICES RULE

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211 and 41-1302, Idaho Code. (9-5-07)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.03, "Military Sales Practices Rule." (9-5-07)T

02. Purpose. (9-5-07)T

a. The purpose of this rule is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair. (9-5-07)T

b. Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule. (9-5-07)T

03. Scope. (9-5-07)T

a. This rule shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces. For purposes of this rule, general advertisements, direct mail and internet marketing shall not constitute solicitation. Telephone marketing shall not constitute solicitation provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this rule in any in-person, face-to-face meeting established as a result of the solicitation exemptions identified in this subsection. (9-5-07)T

b. Nothing herein shall be construed to abrogate the ability of nonprofit organizations (or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense Instruction 1344.07 - Personal Commercial Solicitation on Department of Defense Installations or successor directives. (9-5-07)T

c. This rule shall not apply to solicitations or sales involving: (9-5-07)T

i. Credit insurance; (9-5-07)T

- ii. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund; (9-5-07)T
- iii. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates; (9-5-07)T
- iv. Individual stand-alone health policies, including disability income policies; (9-5-07)T
- v. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.; (9-5-07)T
- vi. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code, and which are not underwritten by an insurer; or (9-5-07)T
- vii. Contracts used to fund: (9-5-07)T
 - (a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); (9-5-07)T
 - (b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer; (9-5-07)T
 - (c) A government or church plan defined in Section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; (9-5-07)T
 - (d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; (9-5-07)T
 - (e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or (9-5-07)T
 - (f) Prearranged funeral contracts. (9-5-07)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (9-5-07)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General – General Provisions. (9-5-07)T

004. INCORPORATION BY REFERENCE.

There are no records incorporated by reference. (9-5-07)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (9-5-07)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box

83720, Boise, ID 83720-0043. (9-5-07)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (9-5-07)T

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (9-5-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (9-5-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Active Duty. Full-time duty in the active military service of the United States including members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one (31) calendar days. (9-5-07)T

02. Department of Defense Personnel. All active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense. (9-5-07)T

03. Door to Door. A solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment. (9-5-07)T

04. General Advertisement. An advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer. (9-5-07)T

05. Insurer. An insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities. (9-5-07)T

06. Insurance Producer. A person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities. (9-5-07)T

07. Known or Knowingly. Depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited: (9-5-07)T

a. Is a service member; or (9-5-07)T

b. Is a service member with a pay grade of E-4 or below. (9-5-07)T

08. Life Insurance. Insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities. (9-5-07)T

09. Military Installation. Any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters. (9-5-07)T

10. MyPay. A Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms. (9-5-07)T

11. Service Member. Any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces. (9-5-07)T

12. Side Fund. A fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include: (9-5-07)T

- a.** Accumulated value or cash value or secondary guarantees provided by a universal life policy; (9-5-07)T
- b.** Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or (9-5-07)T
- c.** A premium deposit fund which: (9-5-07)T
 - i.** Contains only premiums paid in advance which accumulate at interest; (9-5-07)T
 - ii.** Imposes no penalty for withdrawal; (9-5-07)T
 - iii.** Does not permit funding beyond future required premiums; (9-5-07)T
 - iv.** Is not marketed or intended as an investment; and (9-5-07)T
 - v.** Does not carry a commission, either paid or calculated. (9-5-07)T

13. Specific Appointment. A prearranged appointment agreed upon by both parties and definite as to place and time. (9-5-07)T

14. United States Armed Forces. All components of the Army, Navy, Air Force, Marine Corps, and Coast Guard. (9-5-07)T

011. PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR ON A MILITARY INSTALLATION.

01. Unfair Practices Regarding Solicitation. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair: (9-5-07)T

- a.** Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser. (9-5-07)T
- b.** Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary. (9-5-07)T
- c.** Knowingly making appointments with or soliciting service members during their normally scheduled duty hours. (9-5-07)T
- d.** Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation. (9-5-07)T
- e.** Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee. (9-5-07)T
- f.** Posting unauthorized bulletins, notices or advertisements. (9-5-07)T
- g.** Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service

members solicited or encouraging service members solicited not to complete or submit a DD Form 2885. (9-5-07)T

h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by rules, directives or rules of the Department of Defense or any branch of the Armed Forces. (9-5-07)T

02. Corrupt Practices, Improper Influences and Inducements. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members. (9-5-07)T

b. Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program. (9-5-07)T

012. PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR REGARDLESS OF LOCATION.

01. Corrupt Practices, Improper Influences and Inducements. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form. (9-5-07)T

b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution: (9-5-07)T

i. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. Section 4301 et seq. and the rules promulgated thereunder; and (9-5-07)T

ii. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums. (9-5-07)T

c. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection 012.01.b of this rule. (9-5-07)T

d. Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship. (9-5-07)T

e. Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel. (9-5-07)T

f. Offering or giving anything of value, directly or indirectly, to Department of Defense personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member. (9-5-07)T

g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited. (9-5-07)T

h. Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance. (9-5-07)T

02. Unfair Practices Regarding Sponsorship, Approval or Affiliation. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS). (9-5-07)T

b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces. (9-5-07)T

03. Unfair Practices Regarding Costs or Returns. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid. (9-5-07)T

b. Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free." (9-5-07)T

04. Unfair Practices Regarding SGLI or VGLI. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive. (9-5-07)T

b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive. (9-5-07)T

c. Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces. (9-5-07)T

05. Unfair Practices Regarding Disclosure. The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance. (9-5-07)T

b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser. (9-5-07)T

c. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance. (9-5-07)T

d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16. (9-5-07)T

e. Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken: (9-5-07)T

i. An explanation of any free look period with instructions on how to cancel if a policy is issued; and (9-5-07)T

ii. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. (9-5-07)T

06. Unfair Sales Practices Regarding Certain Life Insurance Products. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair: (9-5-07)T

a. Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable. (9-5-07)T

b. Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. (9-5-07)T

i. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents. (9-5-07)T

ii. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits. (9-5-07)T

c. Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund: (9-5-07)T

i. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty; (9-5-07)T

ii. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and (9-5-07)T

iii. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due. (9-5-07)T

d. Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance. (9-5-07)T

e. Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, *e.g.*, double indemnity, which may be excluded. (9-5-07)T

013. SEVERABILITY.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable. (9-5-07)T

014. EFFECTIVE DATE.

This rule shall become effective September 5, 2007 and shall apply to acts or practices committed on or after the effective date. (9-5-07)T

015. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.79 - RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

DOCKET NO. 18-0179-0701 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 41-211 and 41-612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule adopts actuarially developed mortality tables that will allow insurers to set reserves more accurately for more favorable risks. Insurers may elect whether or not to use the new tables.

The proposed rulemaking is based on a model law recently developed by the National Association of Insurance Commissioners in conjunction with the insurance industry. This rule allows insurers, at their option, to set reserves for life insurance policies using the newly developed 2001 CSO Preferred Class Structure Mortality Tables which more accurately reflect differences in mortality between preferred and standard risks. Most states are allowing insurers to use these tables for policies issued on or after January 1, 2007 for reserve valuations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule confers a benefit to the insurance industry by permitting lower reserves to be held where risk is determined to be less in the preferred class. Lower reserve requirements should result in lower premiums for affected policies and confer a benefit on Idaho consumers who purchase these types of policies. By adopting the rule with a January 1, 2007 effective date, insurers will be able to use the new reserve table for their 2007 calendar year reporting and Idaho consumers will be able to benefit to the same extent as consumers in other states that have adopted the rule.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because known interested parties were afforded the opportunity for input during drafting of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Martha H. Smith, 208/334-4315, Martha.hopper@doi.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 25th day of July, 2007.

Martha Hopper Smith, FLMI/M
Senior Financial Examiner
Idaho Department of Insurance
700 West State Street, 3rd Floor, Boise, ID 83720-0043
208-334-4315 (Voice) / 208-334-4298 (Fax)
Martha.Hopper@doi.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0179-0701

**IDAPA 18
TITLE 01
CHAPTER 79**

**18.01.79 - RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE
IN DETERMINING MINIMUM RESERVE LIABILITIES**

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211 and 41-612, Idaho Code. (1-1-07)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.79, "Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities." (1-1-07)T

02. Scope. The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with Sections 41-612(4)(a)(iii), Idaho Code, and IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors," Subsections 005.01 and 005.02. (1-1-07)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (1-1-07)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (1-1-07)T

004. INCORPORATION BY REFERENCE.

The Director of the Department of Insurance adopts by reference the 2001 CSO Preferred Class Mortality Tables. The tables are available on the Society of Actuaries website at <http://www.soa.org/research/individual-life/intl-2001-cso-preferred-class-structure-mortality-tables.aspx>. (1-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (1-1-07)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (1-1-07)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (1-1-07)T

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (1-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (1-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. 2001 CSO Mortality Table. That mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners ("NAIC") in December 2002. The 2001 CSO Mortality Table is included in the "Proceedings of the NAIC (2nd Quarter 2002)" and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection 010.02. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following: (1-1-07)T

a. 2001 CSO Mortality Table (F). Mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table. (1-1-07)T

b. 2001 CSO Mortality Table (M). Mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table. (1-1-07)T

c. Composite Mortality Tables. Mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers. (1-1-07)T

d. Smoker and Nonsmoker Mortality Tables. Mortality tables with separate rates of mortality for smokers and nonsmokers. (1-1-07)T

02. 2001 CSO Preferred Class Structure Mortality Table. Those mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the "NAIC Proceedings (3rd Quarter 2006)." Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table. (1-1-07)T

03. Statistical Agent. An entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner. (1-1-07)T

011. 2001 CSO PREFERRED CLASS STRUCTURE TABLE.

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of IDAPA 18.01.59, "Recognition of the 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits." (1-1-07)T

012. CONDITIONS.

01. Preferred Nonsmoker and Residual Standard Nonsmoker Tables. For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that: (1-1-07)T

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. (1-1-07)T

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. (1-1-07)T

02. Preferred Smoker and Residual Standard Smoker Tables. For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that: (1-1-07)T

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class. (1-1-07)T

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table. (1-1-07)T

03. Unless Exempted By the Director. Every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the director, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the director, statistical reports showing mortality and such other information as the director may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the director or the director may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the director. (1-1-07)T

013. -- 999. (RESERVED).

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1404 and 54-1406A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed changes are needed to implement a statute passed in 2007 regulating certified medication assistants by the Board of Nursing. The proposed rules will establish qualifications for certification of medication assistants; adopt procedures for application, certification renewal, education and training criteria; and provide for competency evaluations and nurse supervision as a requirement for medication assistants. The proposed changes will also clarify grounds for discipline of a nurse for the misuse of alcohol or drugs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Fees will be charged in connection with the licensing of medication assistant – certified as follows:

- Initial Application Fee By Examination: Thirty-Five Dollars (\$35);
- Initial Application Fee By Endorsement: Forty Dollars (\$40);
- Temporary Certification Fee: Twenty-Five Dollars (\$25);
- Renewal of Certification Fee: Sixty-Five Dollars (\$65);
- Reinstatement of Certification Fee: Fifty Dollars (\$50);
- Verification of Records Fee: Thirty-Five Dollars (\$35);
- Fee for Verification of Certification to Another State or Jurisdiction: Thirty Dollars (\$30); and
- Fee not to exceed One Hundred Dollars (\$100) per day will be assessed for Survey and Evaluation of Medication Assistant - Certified Education Programs.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no fiscal impact on the General Fund. While fees will be charged in connection with licensing certified medication assistants, the fees will be used to offset administrative processing expenses.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the statute, passed by the 2007 Legislature, was very specific as to what needed to be included in the rulemaking. Even though negotiated rulemaking was not conducted, the Board of Nursing staff will be holding meetings across the state to obtain public input on the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sandra Evans, MAEd., R.N., Executive Director, (208) 334-3110 x26.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 31st day of July, 2007.

Sandra Evans, MAEd., R.N.
Executive Director
Idaho Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720, Boise, ID 83720-0061
Phone: (208) 334-3110 x26 / Facsimile: (208) 334-3262

THE FOLLOWING IS THE TEXT OF DOCKET NO. 23-0101-0701

100. GROUNDS FOR DISCIPLINE.

01. False Statement. A false, fraudulent or forged statement or misrepresentation in procuring a license to practice nursing shall mean, but need not be limited to: (6-1-78)

a. Procuring or attempting to procure a license to practice nursing by filing forged or altered documents or credentials; or (3-15-02)

b. Falsifying, misrepresenting facts or failing to verify and accurately report any and all facts submitted on any application for licensure, examination, relicensure, or reinstatement of licensure by making timely and appropriate inquiry of all jurisdictions in which licensee has made application for, or obtained, licensure or certification or engaged in the practice of nursing; or (3-15-02)

c. Impersonating any applicant or acting as proxy for the applicant in any examination for nurse licensure. (6-1-78)

02. Conviction of a Felony. Conviction of, or entry of a withheld judgment or a plea of nolo contendere to, conduct constituting a felony. (3-15-02)

03. False or Assumed Name. Practicing nursing under a false or assumed name shall mean, but need not be limited to, carrying out licensed nursing functions while using other than the individual's given or legal name. (3-15-02)

04. Offense Involving Moral Turpitude. An offense involving moral turpitude shall mean, but need not be limited to, an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. (6-1-78)

05. Gross Negligence or Recklessness. Gross negligence or recklessness in performing nursing functions shall mean, but need not be limited to, a substantial departure from established and customary standards of care which, under similar circumstances, would have been exercised by a licensed peer; an act or an omission where there is a legal duty to act or to refrain from acting that a reasonable and prudent practitioner of nursing under same or similar facts and circumstances would have done, would have refrained from doing or would have done in a different manner and which did or could have resulted in harm or injury to a patient/client. An exercise of so slight a degree of care as to justify the belief that there was a conscious or overt disregard or indifference for the health, safety, well-being, or welfare of the public shall be considered a substantial departure from the accepted standard of care. (6-1-78)

06. Habitual Use of Alcohol or Drugs. Habitual use of alcoholic beverages or ~~narcotic, hypnotic, or~~

~~hallucinogenic~~ drugs shall mean, but need not be limited to, the use of such substances to the extent that the nurse's judgment, skills, or abilities to provide safe and competent nursing care are impaired; or that the individual is unable to care for himself or his property or his family members because of such use; or it is determined by a qualified person that the individual is in need of medical or psychiatric care, treatment or rehabilitation or counseling because of drug or alcohol use. (7-1-91)(____)

07. Physical or Mental Unfitness. Physical or mental unfitness to practice nursing shall mean, but need not be limited to, a court order adjudging that a licensee is mentally incompetent, or an evaluation by a qualified professional person indicating that the licensee is mentally or physically incapable of engaging in professional or practical nursing in a manner consistent with sound patient care; or uncorrected physical defect that precludes the safe performance of nursing functions. (6-1-78)

08. Violations of Standards of Conduct. Violations of standards of conduct and practice adopted by the Board shall mean, but need not be limited to, any violation of those standards of conduct described in Section 101 of these rules. (3-15-02)

09. Conduct to Deceive, Defraud or Endanger. Conduct of a character likely to deceive, defraud, or endanger patients or the public shall include, but need not be limited to: (3-15-02)

a. Violating the standards of conduct and practice adopted by the Board. (3-15-02)

b. Being convicted of any crime or act substantially related to nursing practice and including but not limited to sex crimes, drug violations, acts of violence and child or adult abuse. (3-15-02)

10. Action Against a License. Action against a license shall mean entry of any order restricting, limiting, revoking or suspending or otherwise disciplining a license or privilege to practice nursing by any jurisdiction. A certified copy of an order entered in any jurisdiction shall be prima facie evidence of the matters contained therein. (3-15-02)

11. Failure to Make Timely and Appropriate Inquiry. Failing to make timely and appropriate inquiry verifying licensure status in all jurisdictions in which the applicant has ever applied for licensure, certification or privilege to practice, including those jurisdictions in which the applicant is currently or was ever licensed, or in which applicant has practiced, prior to filing any application, verification or other statement regarding licensure status with the Board. (3-15-02)

12. Failure to Cooperate With Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, failure to provide information on request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. (3-30-07)

13. Patterns of Poor Practice. Repeatedly engaging in conduct that departs from the customary standards of care. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

492. MEDICATION ADMINISTRATION BY MEDICATION ASSISTANTS - CERTIFIED (MA-C).

01. When Tasks May Be Performed. A medication assistant - certified may perform the delegated function of administration of medications and related tasks under the direct supervision of a licensed nurse, if: (____)

a. The medication assistant - certified does not assume other unrelated tasks while he is administering drugs; and (____)

b. The medication is an over-the-counter non-prescription or legend drug and is not a controlled

- substance; and ()
- c. The medication is given by an approved medication route, to include: ()
 - i. Orally, to include sublingual, buccal. ()
 - ii. Topically. ()
 - iii. For the eye, ear, or nose. ()
 - iv. Vaginally. ()
 - v. Rectally. ()
 - vi. Transdermally. ()
 - vii. Oral inhaler. ()
 - viii. Established gastric (non-nasogastric) tube. ()
 - d. The delegation does not conflict with provisions of Subsection 400.02 of these rules. ()
- 02. When Tasks Shall Not Be Performed.** A medication assistant - certified shall not perform a task involving the administration of medication if: ()
- a. The medication administration requires a nurse's assessment of the patient prior to or following the medication, a calculation of the dosage of the medication, or the conversion of the dosage. The provision does not restrict the medication assistant - certified from administering PRN medication to stable patients: ()
 - b. The supervising nurse is unavailable to monitor the progress of the patient and the effect on the patient of the medication; or ()
 - c. The patient's condition is unstable or the patient has changing nursing needs. ()
- 03. Report Medication Errors.** A medication assistant - certified who has any reason to believe that he has made an error in the administration of medication shall follow facility policy and procedure to report the possible or known error to his supervising nurse and shall assist in completing any required documentation of the medication error. ()
- 04. Medication Administration Policies.** ()
- a. The medication assistant - certified shall report to the supervising nurse: ()
 - i. Signs or symptoms that appear life-threatening; ()
 - ii. Events that appear health threatening; and ()
 - iii. Medications that produce no results or undesirable effects as reported by the patient. ()
 - b. A licensed nurse shall supervise medication assistant - certified. ()
 - c. A licensed professional nurse shall periodically review the following: ()
 - i. Authorized provider orders; and ()
 - ii. Patient medication records. ()

- d.** Tasks that may not be performed by the medication assistant - certified: ()
- i. Receive and have access to or administer controlled substances. ()
- ii. Administration of parenteral or injectable medications. ()
- iii. Administration of any medication by nasogastric tube. ()
- iv. Calculate drug dosage. ()
- v. Destruction of medications. ()
- vi. Receive written or verbal medication orders. ()
- vii. Request initial dose medications. ()
- viii. Evaluate medication error reports. ()
- ix. Perform treatments unrelated to the administration of medications. ()
- x. Conduct patient assessments. ()
- xi. Engage in patient teaching activities. ()
- xii. Count narcotics. ()
- xiii. Administer initial dose or non-routine medications when the patient's response to the medication is not predictable. ()

493. EDUCATION AND TRAINING FOR MEDICATION ASSISTANT - CERTIFIED.

- 01. Education Program Content.** Education for medication assistant - certified shall include: ()
- a.** At least eighty (80) clock hours of didactic content in: ()
 - i. The role of the medication assistant - certified, to include, but not be limited to, medication administration as a delegated nursing function under the supervision of a licensed nurse in a setting or facility where the performance of the delegated function is not otherwise prohibited by law. ()
 - ii. Fundamentals of medication administration, to include, but not be limited to, medication orders, medication storage, measurement, forms of medications, preparation of medications, role of the medication assistant - certified, and role of the delegating nurse. ()
 - iii. Safety factors in administering medications, to include, but not be limited to, rights of medication administration, prevention of medication errors, and reporting medication errors. ()
 - iv. Communication and documentation, to include, but not be limited to, communication process, boundaries, reporting symptoms and side effects, reporting deviations from normal, and documenting medication administration. ()
 - v. Medication administration, to include, but not be limited to, routes of administration, factors affecting how the body responds to medications, and classes of medications. ()
 - vi. Ethical and legal issues, to include, but not be limited to, responsibility of the medication assistant - certified, patient rights, patient self-administration of medications, and ethical and legal violations. ()
- b.** At least forty (40) clock hours of correlated supervised practicum in medication administration.

- ()
- 02. Board Approval.** Programs preparing medication assistant - certified must be approved by the Board. ()
- a.** Institutions applying for initial approval must make application to the Board on forms supplied by the Board. The following information must be included: ()
- i.** Accreditation status, relationship of educational program to parent institution. ()
 - ii.** Curriculum to be used. ()
 - iii.** Clinical sites to be used. ()
 - iv.** Provision for qualified faculty. ()
- b.** Provisional approval for one (1) year will be granted to programs on initial application that provide evidence that Board-approved training standards will be met. ()
- c.** Programs with provisional approval must apply for full approval on forms supplied by the Board and submit such application to the Board office one (1) month prior to the expiration of provisional approval. ()
- d.** A representative of the Board shall visit the program one (1) year following initial provisional approval and submit a written report to the Board. ()
- i.** Following the Board's review of the visit report, the institution shall be notified of the Board's decision within thirty (30) days of the review. ()
 - ii.** Following its review, the Board may grant full approval, if all conditions have been met; or conditional approval, if all conditions have not been met; or denial of approval if, conditions have not been met and the institution can provide no indication that they will be met within a reasonable timeframe. ()
- e.** A letter of continuing approval will be granted annually to programs that substantially meet the Board's requirements, as evidenced by: ()
- i.** Information included in annual reports to the Board; and ()
 - ii.** Information obtained by Board representative during on-site visits. ()
- 03. Administration of Program.** The educational program shall be administered by an educational institution accredited by an organization recognized by the U.S. Department of Education. ()
- 04. Medication Assistant - Certified Program Requirements.** An educational program preparing medication assistant - certified shall: ()
- a.** Provide evidence of financial support and resources adequate to achieve the purpose of the program, to include, but not limited to, classrooms, laboratories, equipment, supplies, and qualified administrative, instructional, and support personnel and services. ()
 - b.** Maintain current and final records for each student enrolled in the program in accordance with policies of the parent institution. ()
 - c.** Provide sufficient numbers of qualified faculty to implement the curriculum. ()
 - d.** Provide sufficient numbers of faculty in the clinical setting to assure patient safety and meet student learning needs. ()

e. Use a curriculum approved by the Board that includes didactic content and supervised clinical as defined in Subsection 493.01 of these rules. ()

05. Program Administrator. Medication assistant - certified program administrator shall meet institutional requirements for the position. ()

06. Program Instructors. Medication assistant - certified instructors shall: ()

a. Hold a current, unencumbered license to practice as a professional nurse in Idaho. ()

b. Have a minimum of two (2) years practice experience in a health care facility. ()

c. Have at least one (1) year clinical experience relevant to areas of teaching responsibility. ()

d. Provide documented evidence of preparation for teaching adults. ()

07. Instructor Responsibilities. Medication assistant-certified instructor responsibilities are the same as those identified in Subsection 644.01 of these rules. ()

08. Program Changes. Board approval is required to make substantive changes in an approved medication assistant - certified training program. The program provider shall submit a description of the proposed change in curriculum or other substantive change to the Board for review at least sixty (60) days before the program provider plans to implement the changes. The Board will notify the provider in writing of its decision. ()

09. Periodic Training Program Evaluation. To insure compliance with the requirements for medication assistant - certified programs: ()

a. Each program shall submit a report annually regarding the program's operation and compliance with the Board rules. ()

b. Each program shall be on-site surveyed by representatives of the Board and evaluated for ongoing approval every four (4) years or as requested by the Board. ()

c. A copy of the survey visit report will be made available to the education and training program. ()

10. Withdrawal of Approval. ()

a. The Board shall withdraw approval of medication assistant - certified education and training programs when the Board determines that there is not sufficient evidence that the program is meeting requirements. ()

b. The Board shall provide due process rights and adhere to the procedures of the Idaho Administrative Procedures Act, providing notice, opportunity for hearing, and correction of deficiencies. ()

c. The Board may consider reinstatement or approval of an educational program upon submission of satisfactory evidence that the program meets the requirements. ()

11. Closing of Education Programs. When a person or entity plans to discontinue offering an education program, it shall comply with the requirements set forth at Section 604 of these rules. ()

494. APPLICATION FOR CERTIFICATION FOR MEDICATION ASSISTANT - CERTIFIED.

01. Application Submission. An applicant for medication assistant - certified shall submit to the Board: ()

- a.** A completed, notarized application form provided by the Board; and ()
- b.** A notarized affidavit of graduation from an approved medication assistant - certified education and training program; and ()
- c.** Evidence of successful completion of a medication assistant - certified competency evaluation, approved by the Board; and ()
- d.** Payment of application fees as established in Section 497 of these rules; and ()
- e.** Applicant's current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ()
- 02. Temporary Certification.** ()
- a.** At the Board's discretion, a temporary certification may be issued to an applicant who meets all other requirements and is waiting for the federal criminal background report. ()
- b.** Temporary certification is valid for six (6) months from the date of issuance or until a permanent certification is issued or denied, whichever occurs first. ()
- c.** The applicant must pay the temporary certification fee established in Section 498 of these rules. ()
- 03. Denial of Certification.** Certification as a medication assistant - certified may be denied for any of the following grounds: ()
- a.** Failure to meet any requirement established by statute or these rules; or ()
- b.** Failure to pass the certification examination; or ()
- c.** False representation of facts on an application for certification; or ()
- d.** Having another person appear in his place for the certification examination; or ()
- e.** Engaging in any conduct which would be grounds for discipline under Section 54-1406A, Idaho Code, or these rules; or ()
- f.** Revocation, suspension, limitation, reprimand, voluntary surrender, or any other disciplinary action or proceeding including investigation against a certificate to practice by another state or jurisdiction. ()
- 04. Notification.** If certification is denied, the Board will notify the applicant in writing of the reason for denial and inform him of his procedural rights under the Idaho Administrative Procedures Act. ()
- 495. CERTIFICATION RENEWAL FOR MEDICATION ASSISTANT - CERTIFIED.**
- 01. Renewal Time.** Certifications of medication assistants - certified must be renewed every two (2) years. ()
- 02. Renewal Application.** A renewal application will be provided by the Board to persons certified under these rules. The application will be either mailed to the applicant's address on record with the Board no later than one (1) month before expiration of the certification, or be available to applicants on the Board's website. ()
- 03. Final Date to Renew.** The original signed renewal application and renewal fees, as establish in Section 497 of these rules, must be submitted to the Board by personal delivery or postmarked no later than August 31 of every even-numbered year. ()

04. Attestation of Good Standing. Along with the renewal application and applicable fees, the applicant must submit evidence that he is currently listed in good standing on the state's certified nurse aide registry and has been employed as a medication assistant - certified within the preceding twenty-four (24) month period. ()

05. Date Certification Lapsed. Certifications not renewed prior to September 1 of the appropriate year will automatically lapse and be invalid. ()

496. REINSTATEMENT OF CERTIFICATION.

01. Within One Year. A person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement within one (1) year by: ()

a. Filing a completed renewal application; and ()

b. Payment of the verification of records fee and the reinstatement fee as prescribed in Section 498 of these rules. ()

02. After One Year. After one (1) year, but less than three (3) years, a person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by: ()

a. Filing a completed reinstatement application; and ()

b. Payment of the fees prescribed in Section 497 of these rules; and ()

c. Providing evidence satisfactory to the Board of the applicant's ability to practice safely and competently. ()

d. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ()

03. After Three Years. After three (3) years, a person whose certificate has lapsed for failure to timely pay the renewal fee may apply for reinstatement by: ()

a. Filing a completed reinstatement application; and ()

b. Payment of the fees prescribed in Section 497 of these rules; and ()

c. Payment of the temporary certification fee prescribed in Section 497 of these rules, if required; and ()

d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently. ()

e. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ()

04. After Discipline. A person whose certificate has been subject to disciplinary action by the Board may apply for reinstatement of the certificate to active and unrestricted status by: ()

a. Submitting a completed application for reinstatement; and ()

b. Payment of the fees prescribed in Section 497 of these rules; and ()

c. Documenting compliance with any term and restrictions set forth in any order as a condition of reinstatement; and ()

d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently. ()

e. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ()

f. A person whose certificate has been revoked may not apply for reinstatement until two (2) years following the order of revocation. ()

497. FEES APPLICABLE TO MEDICATION ASSISTANT - CERTIFIED AND THE CERTIFICATION PROCESS.

The applicable fees are as follows: ()

01. Initial Fee By Examination. The initial application fee for medication assistant - certified, by examination: thirty-five dollars (\$35). ()

02. Initial Fee By Endorsement. The initial application fee for medication assistant - certified, by endorsement: forty dollars (\$40). ()

03. Temporary. Temporary certification fee: twenty-five dollars (\$25). ()

04. Renewal. Renewal of certification fee: sixty-five dollars (\$65). ()

05. Reinstatement. Reinstatement of certification fee: fifty dollars (\$50). ()

06. Records. Verification of records fee: thirty-five dollars (\$35). ()

07. Verification. Fee for verification of certification to another state or jurisdiction: thirty dollars (\$30). ()

08. Evaluation of Education Programs. A fee not to exceed one hundred dollars (\$100) per day will be assessed for survey and evaluation of medication assistant - certified education programs, which will be due at the time the evaluation is requested. ()

498. CHANGES IN NAME AND ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of certificate holder name occurs, the Board must be immediately notified of the change. Documentation confirming the change of name must be provided to the Board on request. ()

02. Change of Address. Whenever a change of certificate holder mailing address occurs, the Board must be immediately notified of the change. ()

03. Address for Notification Purposes. The most recent mailing address on record with the Board will be utilized for purposes of all written communication with the certificate holder including, but not limited to, notification of renewal and notices related to disciplinary actions. ()

4929. -- 599. (RESERVED).

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Pursuant to Section 54-1703, Idaho Code, it is a purpose of the Idaho Pharmacy Act "to promote, preserve and protect the health, safety and welfare of the public by and through the effective control and regulation of the practice of pharmacy . . .". In the furtherance of that purpose, it is appropriate to amend IDAPA 27.01.01.464 regarding the filling of prescriptions for controlled substances by licensed pharmacists to require that persons receiving controlled substances be positively identified by staff at the pharmacy at the time any controlled substance is dispensed directly to an individual at the pharmacy. The proposed rule provides for identification of persons receiving controlled substances at a pharmacy, describes the manner of satisfying the positive identification requirement, and provides exceptions to the identification requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the rule change and because pharmacists are in favor of this proposal.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jan Atkinson, Senior Compliance Officer, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August 2007.

Jan Atkinson
Senior Compliance Officer
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
Phone: (208) 334-2356 / Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0701

464. ~~FILLING OF A PRESCRIPTION FOR A~~ CONTROLLED SUBSTANCE PRESCRIPTION AND POSITIVE IDENTIFICATION.

01. Filling and Dispensing. No person other than a registered pharmacist under the laws of this state shall be responsible for the filling and dispensing of a prescription for a controlled substance. ()

02. Identification. Persons receiving controlled substances shall be positively identified by staff at the pharmacy at the time any controlled substance is dispensed directly to an individual at the pharmacy. ()

a. Positive identification shall consist of either a valid, current state or military drivers license or identification card, or a valid, current passport, each of which must contain a photo of the individual and the individual's signature. For each controlled substance prescription dispensed directly to an individual at the pharmacy, the pharmacy shall either: ()

i. Make and maintain a photocopy of the identification presented; or ()

ii. Maintain a record of the name of the person receiving the prescribed controlled substance (if other than the patient); and ()

iii. The type of positive identification presented by such person; and ()

iv. The state, military branch, or other government entity issuing the identification; and ()

v. The specific identification number of the drivers license, identification card, or passport. ()

b. In lieu of these means of positive identification, an individual whose identity is personally and positively known to a staff member of the pharmacy who is present and who identifies the individual at the time of delivery of the prescribed controlled substance may be so identified by the staff member; in such instances, the pharmacy shall maintain a record of: (4-11-06)()

i. The name of the person receiving the prescribed controlled substance (if other than the patient); ()

ii. A notation indicating that the patient or other person receiving the prescribed controlled substance was known to the pharmacy staff; and ()

iii. The name of the pharmacy staff person making the identification. ()

c. The provisions in Paragraphs 464.02.a. and 464.02.b. of these rules do not apply to a prescription dispensed directly to the patient at the pharmacy if: ()

i. The prescription is to be paid for, in whole or in part, by an insurer; ()

ii. The pharmacy is part of the health care facility where the patient is being treated. ()

03. Retrieval of Identification Records. The identification records required under Subsection 464.02 of these rules may be maintained by the pharmacy in any fashion provided that the pharmacy must be able to produce such records upon any lawful request, and match the prescription filled with the positive identification records for the person receiving the prescribed controlled substances, as required in Paragraphs 464.02.a. and 464.02.b. of these rules, within no more than two (2) business days from the date of the request. ()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0702

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 27.01.01.177 provides for "limited service pharmacies" which are retail drug outlets that are not community pharmacies but limit the types of drug orders that may be filled. This rule further provides that, where appropriate, the rules applicable to institutional and retail pharmacies may be applied to limited service pharmacies. IDAPA 27.01.01.469.01 contains requirements for all community and mail service pharmacies regarding all Schedule II, III, and IV controlled substance prescriptions filled by the pharmacies. The proposed rule change would amend subsection 469.01 to add limited service pharmacies to those pharmacies required by the rule to report data regarding controlled substance prescriptions. Thus, limited service pharmacies permitted pursuant to IDAPA 27.01.01.177 to fill Schedule II, III, or IV controlled substance prescriptions would be required to report data regarding those prescriptions pursuant to IDAPA 27.01.01.469.01 as are community and mail service pharmacies. The rule changes add "limited service pharmacies" to IDAPA 27.01.01.469.01 so the list of pharmacies in that rule would read: "All community, limited service, and mail service pharmacies . . .".

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jan Atkinson, Senior Compliance Officer, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August 2007.

Jan Atkinson
Senior Compliance Officer
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0702

469. PRESCRIPTION REPORTING.

~~01. **Prescription Reporting Requirements.** All *community and mail service* pharmacies which hold a U.S. Drug Enforcement Administration (DEA) retail pharmacy registration will report by the first of every month or more often as directed by the Board, certain data, as required by the Board, on all schedule II, III and IV controlled substance prescriptions filled. The data may be reported in the form of diskette, direct computer link, magnetic tape or other method as approved by the Board. (7-1-98)(l)~~

~~02. **Reporting Not Required.** *Prescriptions for controlled substances filled for patients in long term care facilities, are not required to be reported.* (7-1-98)~~

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0704

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 54-1703, Idaho Code, states that one of the purposes of the Idaho Pharmacy Act is “to promote, preserve and protect the health, safety and welfare of the public by and through the effective control and regulation of the practice of pharmacy . . .”. In pursuit of that purpose, the proposed new rule would create a “tech-check-tech” pilot project applicable to “hospitals” as defined in Section 39-1301(a), Idaho Code, that also qualify as an “institutional facility” with an “institutional pharmacy” as the later two terms are defined in IDAPA 27.01.01.252.01. The purpose of the pilot project is to allow designated pharmacy technicians within a hospital’s institutional pharmacy to review the work of other pharmacy technicians in connection with the filling of floor and ward stock and unit dose distribution systems for hospital patients whose orders have previously been reviewed and approved by a licensed pharmacist. It is contemplated that if any alteration or combining of dosages is necessary, then a licensed pharmacist would be required to check the resulting dosage. The objective to be served by the pilot program is to free licensed pharmacists within an institutional pharmacy from routine tasks related to the checking of manufacturer or robotically prepared unit dose medications, which checking is capable of being performed by a trained technician, so that the pharmacist has additional time for other tasks within the practice of pharmacy as defined in Section 54-1704, Idaho Code, including, but not limited to, “participation in drug and device selection . . . [and] drug regimen reviews” with a view toward enhancing patient health care. The proposed rule contemplates that the Board of Pharmacy, through its Executive Director, may authorize specific hospitals with institutional pharmacies to participate in the pilot project, and that authorization to participate in the pilot project phase of the program would be at the discretion of the Board and the Executive Director. The Board of Pharmacy previously has undertaken other pilot projects, such as the telepharmacy pilot project under IDAPA 27.01.01.261-264.

The new rule authorizes a “tech-check-tech” pilot program within the institutional pharmacies of hospitals; defines the hospitals eligible to participate in the pilot program; provides that participation in the program during the pilot phase shall be at the discretion of the Board of Pharmacy and its Executive Director; restricts the scope of tasks that may be performed by a pharmacy technician designated to review the work of other pharmacy technicians; requires that hospitals participating in the program file with the Board of Pharmacy a writing program describing the duties, training, and monitoring for the designated technicians; establishes the minimum requirements for the hospital’s program; and requires that the director of the institutional pharmacy be responsible for all activities of pharmacy technicians in the “tech-check-tech” program to ensure that all activities are performed completely, safely, and without risk of harm to patients.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules implement a Board approved pilot project that is voluntary in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jan Atkinson, Senior Compliance Officer, (208) 334-

2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August 2007.

Jan Atkinson
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Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0704

270. TECHNICIAN-CHECKING-TECHNICIAN PILOT PROGRAM.

01. Nature of Pilot Program. The Board, through its executive director, may authorize institutional pharmacies located within acute care hospitals to participate in a Technician-Checking-Technician Pilot Program. The purpose of the Technician-Checking-Technician Pilot Program is to allow pharmacy technicians to review the work of other pharmacy technicians in connection with the filling of floor and ward stock and unit dose distribution systems for hospital patients whose orders have previously been reviewed and approved by a licensed pharmacist. During the pilot project phase of the Technician-Checking-Technician Pilot Program, designation to participate in the program shall be at the discretion of the Board and the executive director. ()

02. Qualifying Institutional Pharmacies. Only an institutional pharmacy located within an acute care hospital, which for purposes of these rules is defined as a facility which is primarily engaged in providing, by or under the supervision of physicians, concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness, shall be eligible to receive authorization to conduct a pilot technician-checking-technician program. ()

03. Written Program Filing. Each institutional pharmacy authorized to conduct a pilot technician-checking-technician program shall have on file with the Board prior to initiating its technician-checking-technician program a written description of its program, which description shall contain, at a minimum: ()

a. The name of the institutional pharmacy's pharmacist-in-charge. ()

b. The name of the pharmacist, if different from the pharmacist-in-charge, assigned by the Institutional Pharmacy as the coordinator of its technician-checking-technician program. ()

b. A description of the duties of the pharmacist assigned by the institutional pharmacy as coordinator of the technician-checking-technician program. ()

c. A description of the duties of the pharmacy technician designated by the institutional pharmacy to perform the function of checking the work of other technicians. ()

d. Identification of the types of medications with respect to which the designated pharmacy technician will perform the function of checking the work of other technicians. ()

e. A description of the specialized and advanced training that shall be provided by the institutional pharmacy to each pharmacy technician designated by it to perform the function of checking the work of other technicians. ()

f. A description of the monitoring and evaluation process that the institutional pharmacy shall utilize to ensure the on-going competency of each pharmacy technician designated by it to perform the function of checking the work of other technicians. ()

g. A description of the means of identification the institutional pharmacy shall use to identify within the pharmacy those pharmacy technicians designated by it to perform the function of checking the work of other technicians. ()

04. Program Requirements. Each institutional pharmacy authorized to conduct a pilot technician-checking-technician program shall comply with the following requirements: ()

a. No pharmacy technician shall be designated by an institutional pharmacy to perform, nor shall such technician perform, the function of checking the work of other technicians without having received and competently completed the specialized and advanced training prescribed in the institutional pharmacy's written program description filed with the Board. ()

b. A pharmacy technician designated by an institutional pharmacy to perform the function of checking the work of other technicians may check the work of other technicians concerning the filling of floor and ward stock and unit dose distribution systems regarding manufacturer prepared or robotically prepared unit dose medications for hospital patients whose prescription orders have previously been reviewed and approved by a licensed pharmacist. The checking function performed by the designated pharmacy technician shall be limited to those types of medications identified in the institutional pharmacy's written program description filed with the Board. If either the alteration of a unit dose or the combination of unit doses is required, then a licensed pharmacist shall verify the resulting unit dose alteration or combination of unit doses. ()

c. The institutional pharmacy shall conduct ongoing monitoring and evaluation of each pharmacy technician designated by it to perform the function of checking the work of other technicians in order to ensure the ongoing competency of each such designated technician and the safety of patients. ()

d. Each institutional pharmacy authorized to conduct a technician-checking-technician program shall maintain on its premises records available for inspection by the Board containing for each pharmacy technician designated by the institutional pharmacy to perform the function of checking the work of other technicians the date the pharmacy technician was so designated; the date the technician completed the specialized and advancing training prescribed in the written program description on file with the Board; the dates and results of all competency evaluations; and the dates of and reasons for any suspension or revocation by the institutional pharmacy or hospital of the pharmacy technician's designation to perform the function of checking the work of other technicians, or other disciplinary action by the institutional pharmacy or hospital against the designated technician connected with the technician's performance of the technician's duties in the technician-checking-technician program. ()

e. Each pharmacy technician designated by the institutional pharmacy to perform the function of checking the work of other technicians shall wear a form of identification identifying him as a pharmacy technician so designated, the manner of identification to be as described in the institutional pharmacy's written program description filed with the Board. ()

f. The institutional pharmacy shall designate a licensed pharmacist, which may be the institutional pharmacy's pharmacist-in-charge, as the technician-checking-technician program coordinator, whose duties as program coordinator shall include the direct supervision of pharmacy technicians designated by the institutional pharmacy to perform the function of checking the work of other technicians, and such other duties as specified in the institutional pharmacy's written program description filed with the Board. ()

g. The pharmacist-in-charge of the institutional pharmacy shall be responsible for the overall operation of the institutional pharmacy's technician-checking-technician program; for ensuring that the activities of

pharmacy technicians in performing the function of checking the work of other technicians are performed completely, safely, and without risk of harm to patients; and for compliance by the institutional pharmacy and its staff with the Board's rules regarding the Pilot Technician-Checking-Technician Program. ()

05. Duration of Authorization. Authorization for an institutional pharmacy to conduct a pilot technician-checking-technician program shall not exceed two (2) years and shall be subject to the right of the Board and its executive director to conduct an annual review of the institutional pharmacy's technician-checking-technician program. ()

~~2701~~. -- 290. (RESERVED).

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.01 - RULES OF THE IDAHO STATE LIBRARY GOVERNING THE USE OF STATE LIBRARY MATERIALS AND SERVICES

DOCKET NO. 30-0101-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, page 71.

This chapter is hereby repealed in its entirety. It has been rewritten and adopted as a pending rule and is being published in this Bulletin following this notice under Docket No. 30-0101-0702.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

DATED this 27th day of July, 2007.

Ann Joslin, State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720, Boise, Idaho 83702
(208) 334-2150 phone / (208) 334-4016 fax

DOCKET NO. 30-0101-0701 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-7, July 4, 2007, page 71.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 30.01.01 is repealed in its entirety.

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0702 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 72 through 78.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

DATED this 27th day of July, 2007.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, Idaho 83702
(208) 334-2150 phone
(208) 334-4016 fax

DOCKET NO. 30-0101-0702 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-7, July 4, 2007, pages 72 through 78.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.02 - RULES OF THE IDAHO STATE LIBRARY GOVERNING PARTICIPATION IN STATE LIBRARY-ADMINISTERED GRANTS

DOCKET NO. 30-0102-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, page 79.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

DATED this 27th day of July, 2007.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, Idaho 83702
(208) 334-2150 phone
(208) 334-4016 fax

DOCKET NO. 30-0102-0701 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 07-7, July 4, 2007, page 79.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes and federal safety regulations. In particular, Rules 202 and 203 currently adopt by incorporation the 2003 Editions of the International Fuel Gas Code and the International Mechanical Code, respectively. These codes are published by the International Code Council. The Commission is proposing to update its Rules 202 and 203 by adoption of the 2006 Editions. The major revisions included in the 2006 Edition of the Fuel Gas Code include: prohibited locations for appliances (Section 303.3); vent piping (Section 403.6.3); a requirement to check for leaks before operating piping system (Section 406.6.4); connecting gas supply to appliances in manufactured homes (Section 411); and standards for single-wall metal pipe (Section 503.10.14). The major revision to the 2006 Edition of the International Mechanical Code includes new standards regarding the location of exhaust outlets in Section 501.2.1.

The Commission is also proposing changes to Rules 301.03 and 302.04. These Safety and Accident Reporting Rules adopt by incorporation new reporting requirements regarding natural gas pipelines. In response to pipeline outages caused by hurricanes Katrina and Rita, the Federal Energy Regulatory Commission (FERC) adopted new safety regulations about the reporting of major service interruptions and damage to natural gas pipelines. The Commission proposes to amend its Safety and Accident Reporting Rules by incorporating the new accident reporting procedures found at 18 C.F.R. Section 260.9. Finally, the Commission is proposing to make several housekeeping corrections to its Safety and Accident Reporting Rules regarding mailing addresses, telephone numbers, e-mail addresses, and citations to other authorities.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 26, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 31st day of July, 2007.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W. Washington St.
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-0701

005. DEFINITIONS (RULE 5).

01. Utilities. The terms “electrical corporation,” “gas corporation,” “pipeline corporation,” “telephone corporation,” and “water corporation” have the meanings given to them by statute in Chapter 1, Title 61, Idaho Code, orders of the Idaho Public Utilities Commission, and decisions of the Supreme Court of Idaho construing these statutes. (7-1-93)()

02. Serious Damage. Damage to natural gas facilities caused by a natural disaster or terrorism that results in a loss of or reduction in pipeline throughput or storage deliverability. ()

03. Serious Interruption of Service. Interruptions of natural gas pipeline service to communities, major governmental installations, and large industrial plants outside of communities or any other interruption that is significant in the judgment of the natural gas pipeline. Interruptions of less than three (3) hours or planned maintenance outages need not be reported. ()

(BREAK IN CONTINUITY OF SECTIONS)

008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 8).

Rules 101, 201, 202, ~~and 203,~~ and 302 incorporate by reference various national safety codes and federal gas pipeline safety regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

201. FEDERAL NATURAL GAS SAFETY REGULATIONS — ~~49 C.F.R. PARTS 191, 192, 193, 195 AND 199~~ (RULE 201).

The Commission ~~adopts~~ incorporates by reference Part 260.9, Title 18 (April 1, 2007) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2005), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available from the, U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated CFR Parts are also available in electronic format at

www.access.gpo.access.gov/nara. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (4-11-06)(____)

202. INTERNATIONAL FUEL GAS CODE (IFGA) (RULE 202).

01. Adoption Incorporation by Reference. The Commission ~~adopts~~ incorporates by reference the International Fuel Gas Code, 2003~~6~~ Edition ~~and the errata dated April 23, 2003~~. The International Fuel Gas Code is published by the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 300 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070. The Code is available from the Code Council and may be ordered online at www.iccsafe.org. Telephone orders may be placed by calling toll-free 800-~~284-4406~~ 786-4452. (3-20-04)(____)

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Fuel Gas Code and to connect for service and light only those installations that: (3-20-04)

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (3-20-04)

203. INTERNATIONAL MECHANICAL CODE (IMC) (RULE 203).

01. Adoption Incorporation by Reference. The Commission ~~adopts~~ incorporates by reference those portions of the 2003~~6~~ International Mechanical Code explicitly referring to gas or gas-burning appliances. The International Mechanical Code is published by the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 300 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070 and may be ordered by calling toll-free 800-~~284-4406~~ 786-4452 or online at www.iccsafe.org. (3-20-04)(____)

02. Utility Compliance. Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code and to connect for service and light only those installations that: (3-20-04)

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code as a condition of receiving service or continuing to receive service. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

RULES 300 THROUGH 400 -- REPORTING OF ACCIDENTS AND SERVICE INTERRUPTIONS

301. IMMEDIATE REPORTING OF FATALITIES AND CERTAIN ACCIDENTS AND MAJOR NATURAL GAS INTERRUPTIONS (RULE 301).

01. Fatality and Accident Reporting Required. Whenever any employee of an electrical corporation, gas corporation, pipeline corporation, telephone corporation, or water corporation or any member of the public dies or requires in-patient hospitalization as a result of contact with or proximity to utility operating property, the utility must notify the Commission by telephone of the fatality or hospitalization no later than the first business day following discovery of the fatality or reporting of the hospitalization, except as provided in Subsection 31.11.01.301.02. Reports should be made to the Commission Secretary at (208) 334-0338. (4-1-98)(____)

02. Operating Property -- Automobile Accident Exception. As used in this rule, operating property

means electric plant as defined in Section 61-118, Idaho Code, gas plant as defined in Section 61-116, Idaho Code, pipelines as defined in Section 61-114, Idaho Code, telephone line as defined in Section 61-120, Idaho Code, or water systems as defined in Section 61-124, Idaho Code. This rule does not apply to fatalities arising out of automobile accidents, even if the automobile later comes into contact with utility plant. Office buildings or portions of office buildings not associated with the physical delivery of utility services or commodities are not considered operating property. (4-1-98)

03. Major Service Interruptions or Damage to Natural Gas Pipelines. The Commission incorporates by reference Section 260.9, Title 18, the Code of Federal Regulations (April 1, 2007). Every natural gas corporation must report serious damage to natural gas facilities and serious interruptions of service to the Commission. Natural gas corporations should also report other serious damage not caused by natural disaster or terrorism if such damages create the potential for serious delivery problems on its own system or the pipeline grid. ()

302. WRITTEN REPORTING OF ACCIDENTS AND NATURAL GAS INTERRUPTIONS (RULE 302).

01. Reporting Required. In addition to any telephone reporting required under Rule 301, a written report ~~of~~ shall be submitted for: ()

a. ~~e~~Every accident involving an employee of the utility or member of the public that results in a fatality or in-patient hospitalization; ~~or~~ ()

b. ~~A~~Any other accident the utility finds significant; ~~or~~ ()

c. Serious damage or service interruption of natural gas pipelines. ()

02. Submitting the Written Report. All written reports must be submitted to the Commission within twenty one (21) days after the fatality or injury is discovered. Reports regarding serious damage or service interruption shall be submitted at the earliest feasible time. Reports should be mailed to: (7-1-93)()

Commission Secretary	Street Address for Express Mail:
Idaho Public Utilities Commission	472 W. Washington St.
PO Box 83720	Boise, ID 83702-5983
Boise, ID 83720-0074	

Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.state.id.us. (5-3-03)

023. Contents of Written Accident Report. There is no standard form for written reports prescribed by this rule. Gas companies may file copies of reports submitted to federal regulators under 49 C.F.R. Part 191. All reports submitted must contain the following information: (7-1-93)()

a. Name of person(s) involved in the accident; (7-1-93)

b. Status of persons involved in the accident (e.g., employees, children, contractors, etc.); (7-1-93)

c. Time of day, day of the week and month, and location of the accident or discovery of the accident; ~~and~~ (5-3-03)()

d. Description of the accident and events leading up to the accident; ~~and~~ (7-1-93)()

e. The company name, contact person, e-mail address and direct telephone number. ()

04. Contents of Written Report Involving Damage or Interruption to Natural Gas Facilities. All written reports shall provide the following information: ()

a. The location and cause of the service interruption or damage to natural gas pipeline or storage

- facilities: ()
- b.** The nature of the serious damage to pipeline or storage facility: ()
 - c.** The specific identification and location of any facilities damaged: ()
 - d.** The time the service interruption or damage to facilities occurred: ()
 - e.** The customers affected by the interruption of service or damage to facilities: ()
 - f.** A brief description of emergency actions taken to maintain service: ()
 - g.** An estimate of the time (if available) when pipeline throughput or storage deliverables are expected to be restored; and ()
 - h.** The company name, contact person, e-mail address and direct telephone number. ()

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes delete an outdated requirement for additional schooling and evaluation at an accredited college of veterinary medicine; incorporate a change in national examination procedures; change when certain documents need to be sent to an applicant for licensure; delete a military waiver provision for licensed individuals that is more restrictive than an applicable statutory provision; clarify filing deadlines for submission of continuing education requirements; increase by two months a licensing eligibility provision; change application procedures for technicians to be more consistent with those for veterinarians; add a clarifying time-frame for animal examinations; add a requirement that the animal patient's name be included along with the owner's name on a prescription; require surgical rooms to be separate, single-purpose rooms to minimize contamination; eliminate unnecessary or redundant information in medical records; add language to incorporate changes in diagnostic testing; establish criteria for a valid veterinary/client/patient relationship in administering drugs to herd animals; change an incorrect citation to a statutory provision; eliminate unnecessary provisions on verification of death of animal; and add a requirement that law enforcement certified euthanasia technicians provide a form signed by the supervising veterinarian.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not feasible because of the simple nature of the proposed rule changes, including correcting an inaccurate citation, eliminating a statutory conflict, reflecting changes to the procedures utilized by testing organizations, and other "housekeeping" matters.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Ewing, Management Assistant, (208) 332-8588.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 26th day of July, 2007.

Karen Ewing
Management Assistant
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249, Boise, ID 83707
Phone: (208) 332-8588 / Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-0701

010. LICENSE.

01. Qualifications for License. Applicants for license to practice veterinary medicine and surgery in Idaho shall be of good moral character and reputation and have: (7-1-97)

a. Graduated from an accredited school of veterinary medicine as defined by Section 54-2103(2), Idaho Code; or (3-30-01)

b. The Board will accept as eligible for licensure: (3-30-01)

i. Any graduate of a veterinary school, college or university outside of the United States and Canada that fulfills the current requirements for foreign veterinary graduates as set forth by the Educational Commission for Foreign Veterinary Graduates or the American Association of Veterinary State Boards. A graduate enrolled in the foreign graduate program would be considered a student as defined by Section 54-2104(2)(b), Idaho Code. (3-30-07)

ii. Any graduate of an unaccredited veterinary school who has completed a curriculum of not less than four (4) academic years in a veterinary medical program approved by the Board and satisfactorily completed clinical education equivalent in purpose, content, experience and length to the clinical training received by students in an accredited veterinary medical program. Such clinical education needs to have been obtained pursuant to a formal affiliation agreement between the unaccredited veterinary school and an accredited veterinary medical program. Qualified graduates applying for licensure under Subsection 010.01.b.ii. may be issued a temporary permit to practice veterinary medicine under the professional supervision of an actively licensed Idaho veterinarian. Such temporary permit may be renewed for up to three (3) years by paying the current active license renewal fee established by Section 014, provided that during this three (3) year period, the applicant has applied to complete the evaluated clinical experience requirements of the ECFVG program. The evaluated clinical experience requirements of the ECFVG program require that the applicant, following graduation from an unaccredited veterinary medical program, has: (3-30-01)

~~(1) Completed one (1) additional academic or full year of evaluated clinical experience at an AVMA accredited or approved college of veterinary medicine and the supervising veterinarian has reported to ECFVG that the candidate has demonstrated competence equal to, or exceeding that expected of a new graduate of an accredited college of veterinary medicine; or (3-30-01)~~

~~(2) Successfully passed the Clinical Proficiency Examination (CPE) approved by the ECFVG. (3-30-01)()~~

c. If at the end of the three (3) year period, the applicant has not received his ECFVG certificate or the results of the Clinical Proficiency Examination have not been made known to him, the expiration date for his temporary permit may be extended until a copy of his ECFVG certificate has been received or the results of the Clinical Proficiency Examination have been made known to him and the applicant's completed license application can be reviewed by the Board at their next regularly scheduled meeting. (3-30-01)

02. Application. Application for license may be obtained from the board office. (7-1-97)

03. Examination. The national licensing examinations for licensure to practice veterinary medicine and surgery in Idaho are: (3-30-01)

a. National licensing examinations, developed by the National Board Examination Committee or its designee, that include, but are not limited to: (3-30-01)

i. The National Board Examination (NBE) and Clinical Competency Test (CCT), which may be taken

at any time and as many times as necessary; (3-30-01)

ii. ~~As of November 1, 2000, the North American Veterinary Licensing Examination (NAVLE);~~
~~which Starting with the November-December 2007 testing window, the NAVLE may be taken at any time and as many times as necessary no more than five (5) times. Candidates failing the NAVLE may not sit for the NAVLE at a date later than five (5) years after their initial attempt. Each of the final two (2) attempts must be at least one (1) year from the previous attempt.~~ (4-5-00)()

b. The jurisprudence examination, as prepared by the Board or its designee, and which may be taken more than once, at three (3) month intervals. (3-18-99)

i. The jurisprudence exam will be an open book exam, consisting of twenty-five (25) to fifty (50) questions on the Idaho veterinary law, and rules, and the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA). (3-30-01)

ii. The jurisprudence exam, a copy of Title 54, Chapter 21, Idaho Code, a copy of the rules of the Board, IDAPA 46.01.01, "Rules of the Idaho State Board of Veterinary Medical Examiners," and a copy of the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA) shall be sent to each applicant ~~along with the application for licensure.~~ (3-30-01)()

iii. After November 1, 2000, applicants who have taken their national examinations prior to this date and have not taken and passed the Clinical Competency Test (CCT) may, in lieu of a passing score on the CCT, provide the documentation specified by Section 54-2107(5), Idaho Code. (3-30-01)

04. Passing Score. (7-1-97)

a. A passing score for the national licensing examinations shall be calculated and reported by the National Board Examination Committee, or its designee, or the American Association of Veterinary State Boards or its designated test vendor. If such a score is not available, the passing score shall be as reported by the National Board Examination Committee, or its designee, or the American Association of Veterinary State Boards or its designated test vendor and shall be considered equal to or greater than one point five (1.5) standard deviation below the mean score of the examination. (3-30-01)

b. A passing score for the jurisprudence examination shall be ninety percent (90%) or such score as deemed appropriate by the Board. All application materials and fees shall be at the board office, with the exception of the Clinical Competency Examination results when an applicant is applying for a temporary permit or a license without having taken the Clinical Competency Examination, before the jurisprudence examination shall be graded. (3-30-01)

05. Review of Examination. (7-1-97)

a. An applicant wishing to review the results of the jurisprudence examination shall make a written request to the Board within thirty (30) days of receipt of the jurisprudence examination results. (7-1-97)

b. The review shall be conducted no later than sixty (60) days from the date of the written request, shall not exceed two (2) hours in length, and no written materials or any reproductions shall be removed from the review premises. (7-1-97)

c. The review shall take place at the office of the Board during normal business hours. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

012. LICENSE RENEWAL/RETURN TO ACTIVE STATUS.

01. Renewal. An “active” or “inactive” veterinary license may be renewed by submission of the completed and signed annual renewal form prescribed by the Board, submission of a continuing education report as outlined in Subsection 015.03.d. for the appropriate hours of continuing education, and payment of all applicable fees. (4-5-00)

02. Return to “Active” License Status. A veterinarian whose license is on inactive status shall not practice veterinary medicine and surgery in this state. A licensee may convert from “inactive” license status to “active” license status by: (4-5-00)

- a. Making written application to the Board on an application form prescribed by the Board. (7-1-97)
- b. Providing evidence of completion of the required continuing education credits. (3-30-07)
- c. Taking and passing the jurisprudence exam with a score of ninety percent (90%) or better. (3-18-99)

d. Providing verification of license in good standing from the licensing boards in each state where the applicant has been licensed to practice veterinary medicine since converting to inactive status or from the American Association of Veterinary State Board’s Veterinary Information Verifying Agency (VIVA). (3-30-01)

- e. Paying all applicable fees. (4-5-00)

03. Late Renewal. Within thirty (30) days of the date a license expires due to nonrenewal, the license may be reinstated by paying the established late fee, the renewal fee, and by fulfilling the requirements of Section 54-2112, Idaho Code. Once a license has expired, a veterinarian may not practice veterinary medicine until the license has been reinstated or until the veterinarian has applied for and received a new license. (4-5-00)

04. Change of Address. It is the responsibility of each licensed veterinarian to notify the board office of any change of address. Failure to receive a renewal form from the Board shall not constitute an excuse for failure to pay the renewal fee and fulfill the requirements of Section 54-2112, Idaho Code. (4-5-00)

~~**05. Military Waiver.** License renewal fees for licensees on active duty with the armed services of the United States may be waived one (1) time, not to exceed the longer of three (3) years or the duration of a national emergency. (3-18-99)~~

(BREAK IN CONTINUITY OF SECTIONS)

015. MANDATORY CONTINUING VETERINARY EDUCATION.

01. Statement of Purpose. It is of primary importance to the public that veterinarians continue their veterinary education throughout the period of their active practice of veterinary medicine. These rules establish the minimum continuing veterinary education requirements necessary for veterinarians to maintain a license to engage in the practice of veterinary medicine in the state of Idaho. (7-1-97)

02. Approved Courses. (3-30-01)

- a. Approved courses include: (3-30-01)
 - i. Those courses and providers listed on the American Association of Veterinary State Board’s Continuing Education Registry; and (3-30-01)
 - ii. Those courses and providers approved by the Board. (3-30-01)
- b. Board approval for a continuing education course may be obtained by sending a written request to

the board office and enclosing copies of the course agenda, dates, times, locations, and requested number of credit hours in management and veterinary medicine. Copies of the sign-in and sign-out sheets for each approved course are to be supplied to the board office following completion of the course by the course provider. (3-30-01)

03. Education Requirements. (7-1-93)

a. Minimum Requirement. Each active veterinarian in the state of Idaho shall complete a minimum of twenty (20) credit hours of accredited continuing veterinary education activity in each and every two (2) year period following the date of his or her admission to the practice of veterinary medicine in this state. (3-30-07)

b. Credit Requirements. The following are the minimum and maximum credits that may be earned for each reporting period and the number of credits that may be obtained by participating in on-line or correspondence courses. (3-30-07)

i. A minimum of fourteen (14) hours of continuing education in veterinary medicine, surgery, and dentistry. (3-30-07)

ii. A maximum of six (6) hours of continuing education in management. (3-30-07)

iii. Veterinarians may obtain a maximum of fifteen (15) credit hours through approved on-line or correspondence courses. (3-30-07)

c. Attendance Period. The attendance period shall be based upon the fiscal year (July 1 to June 30). (3-18-99)

d. Report. Each veterinarian subject to these rules shall file a written report, on a form prescribed by the Board, as provided in this rule. (7-1-93)

i. **Content of Report.** The report shall set forth the record of the veterinarian's compliance with these rules during the attendance period and shall contain at least: (7-1-93)

(1) A list of the courses attended; (7-1-93)

(2) The dates of attendance; (7-1-93)

(3) The sponsoring organization; (7-1-93)

(4) The hours attended, rounded to the nearest one-half (1/2) of an hour; and (7-1-97)

(5) The veterinarian's signature, under penalty of perjury. (7-1-93)

ii. **Place of Filing.** The report of compliance with the continuing veterinary education requirement shall be filed with the secretary of the Board. (3-30-01)

iii. **Time of Filing.** The report shall be ~~filed on, or prior to, July 1~~ submitted or postmarked no later than June 30 in the year the veterinarian is required to complete the continuing education requirement. ~~(7-1-93)~~ ()

04. Exemptions. Upon a showing of good cause by a licensee to the Board, the Board may exempt such licensee from any, all or part of the continuing education requirement or may grant an extension of the required period. Written requests for exemptions from continuing education credits shall be sent to the board office. (3-30-07)

05. Credit for Attendance. Continuing veterinary education credits may be earned by attending approved courses in continuing veterinary education. (7-1-97)

a. Credits. One (1) credit hour shall be given for each fifty (50) minutes actually spent by the active member in attendance at an accredited, domestic or foreign, course. No credit shall be given for: (7-1-97)

- i. Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the course. (3-18-99)
 - ii. Any course attended before admission to practice veterinary medicine in Idaho. (7-1-93)
 - iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the Board. (7-1-97)
- b.** In cases of panel presentations, credit shall be calculated by multiplying the actual number of course hours by two (2) and dividing by the number of panel members involved. (3-18-99)
- c.** Carryover Credit. No credit for attending approved courses in continuing veterinary education shall be applicable to any reporting period other than that during which the credit is actually earned. (7-1-97)

016. ELIGIBILITY EVALUATION - NATIONAL EXAMINATION.

01. Eligibility Requirements. Effective July 1, 2000, all applicants applying to the Board for eligibility evaluation for the national examination shall: (3-30-01)

a. If not previously graduated from an accredited school of veterinary medicine at the time of application, be within ~~six~~ eight (~~6~~8) months of expected graduation date. (~~3-30-01~~)()

b. Have qualified for licensure in this state as outlined in Section 54-2107, Idaho Code and Subsection 010.01; (3-30-01)

c. Have fulfilled the licensing requirements, as outlined in Section 54-2107, Idaho Code and Subsections 010.02, 010.03, and 010.04 with the exception of a passing score on the national examination(s); (3-30-01)

d. Have completed the national examination(s) application prepared by the National Board Examination Committee (NBEC) or its designee and supplied by the Board, NBEC or its designee; (3-30-01)

e. And have paid to the Board the state application and license fee as outlined in Subsection 014.01.a. and the national examination processing fee, as outlined in Subsection 014.01.g. (3-30-01)

02. Application and Fee Deadlines. For applicants applying to the Board for eligibility evaluation for the national examination(s), application and fee deadlines for both the national examination(s) and for the state licensure examination shall be ninety (90) days prior to the first date of each national testing window established by the National Board Examination Committee or its designee. No candidate will be permitted to take the national examination(s) until their completed national and state applications have been received and approved, and the established fees paid. (3-30-01)

03. Determination of Eligibility. Upon the Board's determination of an applicant's eligibility for the national examination(s), the Board shall notify the applicant of his eligibility to take the national examination(s) and shall transmit the applicant's eligibility information and examination fee to the National Board Examination Committee or its designee. Any candidate not included on the Board's eligibility list for the current test window will be ineligible to take the national examination(s) during that test window. (3-30-01)

04. Authorization to Test and Scheduling. The National Board Examination Committee or its designee will supply authorization to test, letters, and scheduling permits to eligible candidates. Scheduling permits will contain instructions pertaining to establishing, changing or canceling a test appointment through a centralized registration center (Customer Service Call Center or CSCC). (3-30-01)

a. Candidates will be responsible for scheduling their own testing date, time and location through the Customer Service Call Center, CSCC. Candidates who desire to change the date, time or location of the testing appointment may do so without financial penalty until noon on the fifth business day prior to the scheduled appointment. All times are based upon the local time of the center where the candidate is scheduled to test. (3-30-01)

b. Candidates must take the national examination(s) within the established test window or their authorization to test will expire and their national examination(s) and processing fees forfeited. (3-30-01)

c. Candidates desiring to retake the national examination(s) during a subsequent test window must have their eligibility reconfirmed by the Board to the National Board Examination Committee or its designee and pay the established national examination(s) and processing fees. (3-30-01)

05. National Examination(s) Scoring and Reporting. (3-30-01)

a. The passing score for the national examination(s) shall be the criterion referenced passing score established by the National Board Examination Committee or its designee, or by the American Association of Veterinary State Boards or its designated test vendor. (3-30-01)

b. The Board will report scores on the national examination(s) to the individual candidates. (3-30-01)

i. No candidate shall be permitted to review the national examination(s) or receive copies of his answers to the examination(s). (3-30-01)

ii. For candidates failing the national examination(s), upon request, a diagnostic breakdown according to the examination's overall content areas will be supplied. (3-30-01)

iii. Any appeals by candidates regarding examination(s) scores will be managed by and between the candidate and the Board. (3-30-01)

iv. Any rationales and analyses provided by the National Board Examination Committee beyond the diagnostic information will be at the Board's written request and at the candidate's expense. (3-30-01)

c. A copy of the candidate's initial score report will be supplied to the Board by the National Board Examination Committee. Subsequent score reports to other boards must be requested by the candidate through the American Association of Veterinary State Boards, or their designee at the candidate's expense. (3-30-01)

017. -- 099. (RESERVED).

100. CERTIFICATION OF VETERINARY TECHNICIANS.

Any person representing himself as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in the state of Idaho. (3-30-07)

01. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application shall be valid and maintained at the board office for a period of one (1) year, contain the applicant's notarized signature, and include: (3-30-01)

a. A *notarized* copy of a birth certificate; or current passport; ~~or valid driver's license~~ proving that the applicant is eighteen (18) years of age or more. (~~3-30-01~~)()

b. Notarized affidavits issued during the year preceding certification from two (2) individuals, personally acquainted with the applicant, attesting to the fact that the applicant is of good moral character. (3-30-01)

c. Documentation of Education/Training/Experience as follows: (3-30-01)

i. A notarized copy of a diploma or certificate verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; or (3-30-01)

ii. A notarized copy of a diploma or certificate verifying graduation from a veterinary technology program equivalent to a program accredited by the American Veterinary Medical Association, or from another

college or institution approved by the Board; or (3-30-01)

iii. Notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or (3-30-01)

iv. If a foreign veterinary graduate, notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent in a program of veterinary medicine from a foreign school of veterinary medicine or the veterinary department of a foreign university or another college or institution that is approved by the Board. (3-30-07)

d. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination(s) approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. (3-30-01)

i. The VTNE or other national examination(s) approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. (3-30-01)

ii. Scores for the VTNE or other national examination(s) approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. (3-30-01)

e. A passing score of at least ninety percent (90%) correct on the Idaho Veterinary Technician Jurisprudence Examination. (3-30-01)

02. Application for Certification -- Fee -- Deadline -- Validity. (3-30-01)

a. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the board office by the first day of January or June. (3-30-01)

b. The Board will review applications and issue certifications in January and June of each year. Veterinary Technician Certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters CVT. If an applicant is found not qualified, the Board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code. Any applicant who is denied certification shall be allowed the return of the certification fee portion of the application fee. (3-30-01)

c. Any applicant taking and passing the Idaho Veterinary Technician Jurisprudence Examination and not wanting to be certified at the next review by the Board shall be allowed the return of the certification fee portion of the application fee only. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

153. STANDARDS OF PRACTICE.

Veterinarians shall adhere to the guidelines for professional behavior set forth in the Principles of Veterinary Medical Ethics, Opinions and Reports of the Judicial Council, Section 152, Code of Professional Conduct, and the Board's standards of practice as defined by rule. Standards of practice include but are not limited to: (3-30-01)

01. Practice Procedures. (7-1-97)

a. A licensed veterinarian shall exercise at least the same degree of care, skill, and diligence in treating patients that is ordinarily used in the same or similar circumstances by members of the veterinary medical profession of similar training and experience in the community in which he practices. (3-30-07)

b. When the primary objective is to protect the animal patient's health and a professionally acceptable immunization procedure is being sought, an ~~"clinical examination"~~ of the animal by the veterinarian is required prior to each and every immunization procedure, unless the animal has been examined in the last ninety (90) days, except in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the animal patient's owner. For the purpose of this subsection the definition of "Owner" in addition to ownership as defined by the laws of the ownership of property, non-profit organizations dedicated to the care and treatment of animals shall be considered the owners of animals in their custody if such organizations are the primary care giver for the animal or if the true owner of such animal cannot be immediately determined. (~~4-5-00~~)(____)

c. A veterinarian shall establish a valid veterinarian/client/patient relationship as defined by rule Section 150, prior to dispensing, using, prescribing, or selling any controlled substance or legend drug, or the prescribing of an extra-label use of any drug. (4-5-00)

d. A veterinarian dispensing or distributing any drug or medicine shall dispense or distribute such drug or medicine in good faith, within the context of a valid veterinarian/client/patient relationship as defined by Section 150, and shall, except in the case of any drugs and medicines that are in containers that bear a label of the manufacturer with information describing their contents and that are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, 21 CFR Part 201.105, affix or cause to be affixed to the container containing the drug or medicine a label indicating: (3-30-01)

- i. The date on which such drug or medicine is dispensed; (4-5-00)
- ii. The name of the owner and patient; (~~4-5-00~~)(____)
- iii. The last name of the person dispensing such drug or medicine; (4-5-00)
- iv. Directions for use thereof, including dosage and quantity; and (4-5-00)
- v. The proprietary or generic name of the drug or medicine. (4-5-00)

02. Construction Standards. (7-1-97)

a. All premises shall meet the minimum requirements of construction, sanitation and cleanliness of the county health department in which the premise is located. (7-1-97)

b. All buildings and grounds shall conform to local building and zoning regulations. (7-1-97)

c. Fire prevention measures shall conform to state and local codes. (7-1-97)

d. All facilities shall provide for the effective separation of contagious and noncontagious cases. (7-1-97)

e. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (3-30-01)

03. Equipment Standards. (7-1-97)

a. All facilities shall be equipped with or have access to adequate diagnostic and therapeutic equipment and supplies to enable the veterinarian to provide the services offered. Adequacy of equipment and supplies will be consistent with and determined by the standards of veterinary medicine practiced by members of the veterinary medical profession in the community. (3-30-01)

b. All facilities and equipment used shall meet the manufacturers' label requirements for the storage of biologicals and supplies requiring temperature control. (7-1-97)

c. All facilities offering surgical services shall have properly sterilized surgical supplies and instruments. Autoclave equipment shall be properly utilized in those facilities where major surgery is conducted. (7-1-97)

d. All facilities shall have an adequate power supply to operate all equipment necessary to perform the services offered. (7-1-97)

04. Facility Sanitation Standards. (7-1-97)

a. All facilities shall meet the requirements of the state department of health and local health departments pertaining to sewage, waste disposal, and the disposal of dead animals. (7-1-97)

b. All areas of the building and grounds shall be kept free of refuse. (7-1-97)

c. All facilities shall maintain a sanitary environment to avoid sources and transmission of infection including a means to isolate animals with a highly communicable disease. (7-1-97)

d. Floors, countertops, tabletops, sinks, and similar equipment shall be maintained in a clean and sanitary condition. (3-30-01)

e. Examination tables, surgery tables and all indoor, as well as outdoor, small animal compartments shall be constructed of sealed or non-porous material and cleaned and disinfected after each animal use. (4-5-00)

f. All animal compartments shall be cleaned and disinfected at least once a day when in use, and be constructed in a manner to reasonably prevent injury to and/or loss of confinement for the animal. (7-1-97)

g. Large animal compartments shall be cleaned at least once daily when in use. If communicable disease is present, the enclosure shall be disinfected after each use. (7-1-97)

05. Surgical Standards. (7-1-97)

a. Surgical ~~areas for aseptic procedures~~ rooms shall be ~~either a~~ separate, closed, single-purpose rooms ~~or have the capacity to be separated during use~~ entered only for activities associated with aseptic surgical procedures and utilized in a manner that minimizes the potential for contamination. (7-1-97)()

b. Surgical areas shall be provided with emergency lighting. (7-1-97)

c. In the surgical areas, temperature and ventilation shall be maintained at adequate levels to ensure the animal's comfort, safety and sanitation. (7-1-97)

d. All surgical areas shall be equipped with adequate resuscitation equipment. (7-1-97)

06. Anesthesia Standards. (7-1-97)

a. All anesthetized animals shall be appropriately monitored and under supervision at all times. Evidence of this monitoring shall be documented in writing in the medical record. (3-30-07)

b. Anesthesia areas shall be equipped with adequate ventilation systems that ensure the safety of humans and animals. (4-5-00)

154. RECORD KEEPING STANDARDS.

Every veterinarian shall maintain daily medical records of the animals treated. These records may be computerized and shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records,

including electronic records, shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. In the case of electronic records, the veterinarian shall keep either a duplicate hard-copy record or a back-up unalterable electronic record. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (e.g., herd, litter, and flock) treated by a veterinarian. (3-30-07)

- 01. Medical Records.** Medical records shall include but not be limited to: (7-1-97)
 - a.** Name, address and phone number of the animal's owner or other caretaker. (7-1-97)
 - b.** Name and description, sex (if readily determinable), breed and age of animal; or description of group. (7-1-97)
 - c.** Dates (beginning and ending) of custody of the animal. (7-1-97)
 - d.** A short history of the animal's condition as it pertains to the animal's medical status. (7-1-97)
 - e.** Results and notation of examination, (~~i.e. temperature, pulse and respiration rate, laboratory data, etc.~~) condition, and diagnosis suspected. (~~7-1-97~~)()
 - f.** All medications, treatments, prescriptions or prophylaxis given, including amount and frequency for both inpatient and outpatient care. (7-1-97)
 - g.** Diagnostic and laboratory tests or techniques utilized, and results of each. (7-1-97)
 - h.** Written anesthesia records. (3-30-07)
- 02. Consent Forms.** Consent forms, signed by the patient's owner or other legal caretaker for each surgical and/or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and shall be maintained on file with the practitioner. (3-30-07)
- 03. Postoperative Instructions.** Postoperative home-care instructions shall be provided in writing and be noted in the medical record. (3-30-07)
- 04. Treatment Records.** Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. (3-30-01)
- 05. Ownership of Medical Records.** Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive in a timely manner a copy or summary of the patient's medical record, upon the request of the patient's owner or other caretaker. Veterinarians shall secure a written release to document that request. (3-30-07)
- 06. ~~Radiograph~~ Diagnostic Image Identification and Ownership.** All ~~radiographs~~ diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A ~~radiograph~~ diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such ~~radiographs~~ diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared ~~within a reasonable time~~. (~~3-30-01~~)()
- 07. Estimates.** A veterinarian shall make available to each client a written estimate on request. (3-30-07)
- 08. Controlled Substances and Prescription or Legend Drugs.** A controlled substance is any

substance classified by the federal Food and Drug Administration or the Idaho Board of Pharmacy in Schedules I through V of the state or federal Controlled Substances Act, Title 37, Chapter 27, Idaho Code or 21 CFR Part 1308. A prescription or legend drug is any drug that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements: "Caution federal law prohibits dispensing without a prescription"; or "RX Only;" or "Caution: Federal law restricts this drug to used by or on the order of a licensed veterinarian"; or a drug which is required by any applicable federal or state law or regulation or rule to be dispensed on prescription only, or is restricted to use by practitioners only. A veterinarian shall only dispense or distribute a controlled substance or prescription or legend drug within the context of a valid veterinarian/client/patient relationship ~~as defined by Section 150~~. To establish a valid veterinarian/client/patient relationship in a dairy, swine, or poultry operation, a licensed veterinarian must be physically present on the premises on a herd health basis a minimum of once quarterly. To establish a valid veterinarian/client/patient relationship in a beef, sheep, or cervidae operation, a licensed veterinarian must be physically present on the premises on a herd health basis a minimum of once annually. (3-30-01)()

a. Records shall be kept that account for all dispensed and distributed controlled substances and prescription or legend drugs. The records shall comply with all federal and state laws. All information required by statute shall be recorded in the patient record along with the initials of the veterinarian who authorized the dispensing or distribution of the controlled substances or prescription or legend drugs. (3-30-01)

b. A separate inventory record shall be kept for each controlled substance by name and strength. The record shall include: (7-1-97)

i. Records of the receipt, which include all information required by federal law, the date of the receipt, the amount received, the source of receipt, and the invoice number. (7-1-97)

ii. Records of dispensing, which include the date the controlled substance was dispensed, the amount dispensed, the animal's name, identification of the patient record, identification of the person who dispensed the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal law. (7-1-97)

c. Records for all dispensed or distributed prescription or legend drugs shall be maintained in the individual patient or herd record and shall include the date the drug was dispensed or distribution was authorized, the amount dispensed or distributed, identification of the person who dispensed or authorized distribution of the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal or state law, regulation or rule. (3-30-01)

d. Prescription drug order means a lawful written or verbal order of a veterinarian for a drug. (3-30-01)

i. When prescription drug orders are to be distributed to the animal(s)' owner or legal caretaker by a retail veterinary drug outlet, all orders for prescription or legend drugs shall be written on an official three (3) part order form available through the Idaho Department of Agriculture. The veterinarian shall retain the second copy in his medical record and the original and one (1) copy shall be sent to the retail veterinary drug outlet. The retail veterinary drug outlet shall retain the original and attach the copy of the original to the order for delivery to the animal(s)' owner or legal caretaker. (3-30-01)

ii. Under no circumstances shall a prescription or legend drug be distributed by a retail veterinary drug outlet to an animal(s)' owner or legal caretaker prior to the issuance of either a written or oral prescription drug order from the veterinarian: (3-30-01)

(1) When a written prescription drug order from the veterinarian has been issued to a retail veterinary drug outlet, a copy of the veterinarian's original prescription drug order shall be attached to the prescription or legend drugs that are delivered to the animal(s)' owner or legal caretaker. (3-30-01)

(2) When a retail veterinary drug outlet receives an oral prescription drug order from the veterinarian, the oral order shall be promptly reduced to writing on a Department of Agriculture telephone drug order blank. A copy of the written oral order shall be attached to the prescription or legend drugs that are delivered to the animal(s)'s

owner or legal caretaker. (3-30-01)

(3) When a veterinarian issues an oral prescription drug order to a retail veterinary drug outlet, the oral order shall be followed within seventy-two (72) hours by a written prescription drug order signed by the veterinarian. (3-30-01)

e. When prescription or legend drugs are dispensed, the labeling on all containers shall be in compliance with the requirements of Subsection 153.01.d. (3-30-01)

f. When controlled substances are dispensed, all containers shall be properly labeled with: (4-5-00)

i. The clinic's name, address, and phone number; (4-5-00)

ii. The name of the client and patient; (3-30-01)

iii. The drug name and quantity; and (3-30-01)

iv. The directions for use, including dosage and quantity. (3-30-01)

g. All controlled substances shall be stored and dispensed in accordance with the requirements of the Uniform Controlled Substances Law and Code of Federal Regulations. (3-30-01)

155. -- 199. (RESERVED).

200. EUTHANASIA TASK FORCE.

Pursuant to Section 54-2105(~~6~~)(~~8~~), Idaho Code, a Certified Euthanasia Task Force (CETF) is established for the purpose of training, examining, and certifying euthanasia agencies and euthanasia technicians. The CETF shall consist of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the CETF. The membership of the CETF shall always include at least one (1) member of the Board. New members shall be nominated by either the Board or the CETF and be confirmed by the Board. Applicants for a CETF position shall be certified euthanasia technicians (CETs) as defined by Section 54-2103(9), Idaho Code, and employed by a certified euthanasia agency as defined by Section 54-2103(8), Idaho Code or be an Idaho licensed veterinarian. (~~3-30-07~~)(_____)

01. Term. Each member shall serve for two (2) years, at the pleasure of the Board. A CETF member may be eligible for reappointment. If there is a vacancy for any cause, the CETF or the Board shall nominate and the Board shall confirm a successor to fill the unexpired term. (7-1-97)

02. Duties. The duties of CETF members shall include but not be limited to the following: (7-1-93)

a. Coordinate and provide euthanasia training classes as needed. (7-1-97)

b. Inspect and certify agencies. (3-30-01)

c. Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency, (CEA) or Certified Euthanasia Technician (CET). (3-30-01)

d. Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. (3-30-01)

e. Recommend suspension or revocation of a certification when necessary. (3-30-01)

03. Compensation. Members of the CETF shall be compensated as provided by Section 59-509(n), Idaho Code. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The CETF or the Board shall develop training sessions and materials that shall include, but not be limited to, the following topics: (3-30-01)

- a. Euthanasia: (3-30-01)
 - i. The theory and history of euthanasia methods; (3-30-01)
 - ii. Animal anatomy; (3-30-01)
 - iii. Proper animal handling to ease trauma and stress; (3-30-01)
 - iv. Dosages of chemical agents, record keeping and documentation of usage, storage, handling, and disposal of out-dated drugs and their containers, instruments and equipment used in their administration in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations; (3-30-01)
 - v. Proper injection techniques; and (3-30-01)
 - vi. Proper use and handling of approved euthanasia drugs and equipment; (3-30-01)
 - vii. Examination. Following the euthanasia training, a written examination shall be given. Those passing the written examination will be eligible for the practical examination. (3-30-01)

- b. Remote Chemical Capture: (3-30-01)
 - i. An overview of remote chemical capture; (3-30-01)
 - ii. Description and basic mechanism of action of approved drugs; (3-30-01)
 - iii. Laws, regulations and rules governing remote chemical capture; (3-30-01)
 - iv. Post-injection care; (3-30-01)
 - v. Proper use and handling of approved restraint drugs and equipment; (3-30-01)
 - vi. Human safety; (3-30-01)
 - vii. Tactics and strategy; and (3-30-01)
 - viii. Delivery systems and equipment. (3-30-01)

02. Certification Standards. Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards. (3-30-01)

- a. Euthanize animals in the presence of one (1) or more CETF or board members: (3-30-01)
 - i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; (3-30-01)
 - ii. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern; (3-30-01)

iii. CETs shall be able to properly perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, shall meet the standards listed in Subsection 205.02.a.iii.(1). Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subsection 205.02.a.iii.(3). (3-30-01)

(1) Intravenous Injections: The CET shall be able to properly and efficiently insert the needle into an animal's vein in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method. IV injections in the cephalic vein shall be used on all dogs over the age of three (3) months unless the animal's physical condition or size makes this type of injection impossible, or the animal's behavior would make this type of injection a serious danger to the CET or handler. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler(s). The handler(s) do not need to be CET(s), but the handler(s) should be trained in human safety and animal handling techniques; (3-30-01)

(2) Intraperitoneal Injections: The CET shall be able to efficiently insert the needle into the proper injection site in no more than two (2) attempts on ninety-five percent (95%) of the animals injected by this method. It is recommended that animals injected by this method be held or otherwise restrained by the handler until the animal is unconscious. If an animal cannot be held, it shall be placed into a cage with no other animals. The front of the cage shall be covered with cloth or other material that can keep the cage isolated from the normal activities in the euthanasia area. The animal shall be checked every five (5) minutes until death occurs. Intraperitoneal injections may be administered by a CET without a handler. (3-30-01)

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to efficiently insert the needle into the heart of an animal in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method. Intracardiac injections may be administered by a CET without a handler. (3-30-01)

iv. No other injection procedures are permitted in any type of animal; (3-30-01)

v. Injections: (3-30-01)

(1) On all injections, the CET shall aspirate the syringe to determine if the needle is in the correct site; (3-30-01)

(2) For human safety, the cap shall be kept on the needle until such time as the injection is ready to be made; (3-30-01)

(3) The needle shall be of the size and length appropriate for the specific animal involved; and (3-30-01)

(4) The dosage of any approved drug used shall be no less than the minimum dosage recommended by the drug's manufacturer. (7-1-97)

vi. Oral administration of approved drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; (3-30-01)

vii. Demonstrate an understanding of carbon monoxide-induced euthanasia chambers. (3-18-99)

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept. The record shall contain the following information: (3-30-01)

i. A weekly verification of the drug stock on hand, signed by the CET; (3-30-01)

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET; (3-30-01)

iii. The species and approximate weight of each animal administered a drug; (3-30-01)

- iv. The amount of the drug that was administered; (3-30-01)
- v. The signature of the CET who administered the drug; (3-30-01)
- vi. A record of the amount of the drug wasted, if any, signed by the CET administering the drug; and (3-30-01)
- vii. A record of any disposal of expired or unwanted approved drugs, other chemical agent(s) or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)
- c.** Demonstrate understanding and concern for the needs of individual animals: (3-18-99)
- i. Once they have collapsed, injected animals shall be lowered to the surface on which they were being held at the time of injection. Injected animals shall not be permitted to drop or otherwise collapse without human support; (3-30-01)
- ii. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler(s). Handling includes all aspects of moving an animal from one (1) area to another; (3-30-01)
- iii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)
- iv. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)
- d.** Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within thirty (30) seconds after an IV or IC injection, within fifteen (15) minutes after an IP injection, or within sixty (60) minutes after an oral administration. If any animal does not show any of these signs within the designated time periods, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. ~~Terminal signs include no visual indications of breathing or heartbeat, lack of capillary response in the gums and/or lack of corneal or pupillary reflexes. Each animal shall be checked to verify death.~~ Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: ~~(3-30-01)()~~
- i. Rigor mortis; or (7-1-93)
- ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, ~~complete lack of capillary response in the gums,~~ and complete lack of corneal; ~~and palpebral,~~ ~~and pupillary~~ reflexes. ~~(3-30-01)()~~
- e.** Demonstrate ability to communicate with handlers during the euthanasia process. (3-18-99)
- 03. Certification.** An individual shall not be certified as a CET until such time as he has demonstrated proficiency in the practical examination that shall be conducted following the successful passing of the written exam. Training courses and written and practical examinations will be given as needed. Certification and renewal training sessions and examinations will be conducted prior to July 1 of each year at a place selected by the CETF or the Board. A law enforcement CET working under the indirect supervision of a licensed veterinarian must provide verification of supervision by the supervising veterinarian on a form provided by the board office. ~~(3-30-01)()~~
- a.** An individual who has passed the written exam, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical exam and certification are conducted by a CETF or board member. (3-30-07)

b. An individual who has not passed the written exam may not serve as a euthanasia technician or assistant. (3-30-01)

c. An individual who attends a training session and passes the written exam but fails the practical exam may serve on probation until the CETF member re-examines the individual. If the individual fails to pass the practical exam a second time and wishes to apply again, the individual shall attend the next regular training session and written exam. (3-30-01)

d. Upon termination from an agency as defined in Section 204 of these rules, a CET shall not perform animal euthanasia until employed by another certified euthanasia agency as defined by Section 54-2103(8), Idaho Code. (3-30-01)

e. The agency shall notify the board office and/or a CETF member in writing within thirty (30) days from the date the CET's employment at that agency is terminated. (3-30-01)

f. If a CET is employed again within eighteen (18) months of his last certification, the CET and/or employer may request reinstatement and renewal of the CET's certification. If the certification has expired past the eighteen (18) months maximum, the CET may euthanize animals under the direct supervision of a currently certified euthanasia technician until such time as a CETF or Board member can administer a written examination and authorize recertification. If a CET has not attended a euthanasia training in the three-year period preceding recertification, the CET may not be recertified and will need to reapply for certification. (3-30-07)

g. All certifications expire on July 1 of each year and are effective for no longer than twelve (12) months from the date of certification. (3-30-01)

04. Certification Renewal. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014. (3-30-01)

05. Duties. The duties of a CET shall include, but are not limited to: (7-1-97)

a. Preparing animals for euthanasia; (7-1-97)

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; (3-30-01)

c. Ordering supplies; (7-1-93)

d. Maintaining the security of all controlled substances and other approved drugs; (3-30-01)

e. Directly supervising probationary CET(s); (7-1-97)

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; (3-30-01)

g. Humanely euthanizing animals; and (3-30-01)

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent(s) or the containers, instruments and equipment used in the administration of approved drugs. (3-30-01)

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION

DOCKET NO. 52-0101-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7408(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rules of the Idaho State Lottery that are adopted at IDAPA 52.01.01 combine two different topics - rules of practice and procedure and rules governing the operation of the Idaho State Lottery itself. The rules of practice and procedure in many instances paralleled but differed from the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, while the rules governing the Idaho State Lottery dealt with the substantive rules of the Lottery's games.

The Idaho State Lottery has decided to separate these two subject matters currently combined into one chapter. This existing chapter 52.01.01 will now contain only rules of practice and procedure. Rules governing operation of the Lottery will be transferred to IDAPA 52.01.03. Further, experience has shown that it would be simpler to use the Idaho Rules of Administrative Procedure of the Attorney General rather than maintain the Lottery's somewhat different rules of procedure. Accordingly, the existing IDAPA 52.01.01 is repealed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the state's general fund from these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted given the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Steve Woodall, Deputy Director for Administration
Idaho State Lottery
1199 Shoreline Lane, Boise, ID
P.O. Box 6537, Boise, ID 83707-6737
Tel: 208-334-2600 / Fax: 208-334.2610

IDAPA 52.01.01 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION

DOCKET NO. 52-0101-0702 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7408(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities, Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rules of the Idaho State Lottery that are adopted at IDAPA 52.01.01 combine two different topics—rules of practice and procedure and rules governing the operation of the Idaho State Lottery itself. The rules of practice and procedure in many instances paralleled but differed from the Idaho Rules of Administrative Procedure, IDAPA 04.11.01, while the rules governing the Idaho State Lottery dealt with the substantive rules of the Lottery's games.

The Idaho State Lottery has decided to separate these two subject matters currently combined into one chapter. This existing chapter 52.01.01 will now contain only rules of practice and procedure. Rules governing operation of the Lottery will be transferred to IDAPA 52.01.03. Further, experience has shown that it would be simpler to use the Idaho Rules of Administrative Procedure rather than maintain the Lottery's somewhat different rules of procedure. Accordingly, the existing IDAPA chapter 52.01.01 is repealed and these new rules of practice and procedure adopt the Idaho Rule of Administrative Procedure to govern administrative procedure before the Idaho State Lottery.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the state's general fund from these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted given the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Steve Woodall
Deputy Director for Administration
1199 Shoreline Lane, Boise, ID
P.O. Box 6537, Boise, ID 83707-6737
Tel: 208-334-2600
Fax: 208-334.2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0101-0702

IDAPA 52
TITLE 01
CHAPTER 01

52.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO STATE LOTTERY COMMISSION

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted under the general legal authority of Title 67, Chapter 74, Idaho Code, and the specific legal authority of Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code, and under the general legal authority of Title 67, Chapter 77, Idaho Code, and the specific legal authority of sections, 67-7705, 67-7708, 67-7712, 67-7714, Idaho Code, and any other sections of these chapters referring to rules, rulemaking or contested cases. ()

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of these rules are 52.01.01, "Rules of Practice and Procedure of the Idaho State Lottery Commission." ()

02. Scope. The scope of these rules is to govern all contested case proceedings before the Idaho State Lottery and all rulemaking before the Idaho State Lottery. ()

002. WRITTEN INTERPRETATIONS (RULE 2).

All written interpretations of these rules are available for public inspection and copying at the offices of the Idaho State Lottery, 1199 Shoreline Lane Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS (RULE 3).

These rules provide the procedures for administrative appeals of contested cases before the Idaho State Lottery under Title 67, Chapter 77, Idaho Code. There are no contested cases under Title 67, Chapter 74, Idaho Code. ()

004. INCORPORATION BY REFERENCE (RULE 4).

These rules incorporate by reference IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

01. Street Address. The Idaho State Lottery is located at 1199 Shoreline Lane Boise, Idaho 83702, which is the street address for purposes of in-person delivery of documents in contested cases or rulemaking or the address at which persons may in person request copies of documents in contested cases or rulemaking. ()

02. Mail Address. The Idaho State Lottery's mailing address for purposes of filing documents by mail in contested cases or rulemaking is PO Box 6537, Boise, Idaho 83707-6537. ()

03. Office Hours. The office hours of the Idaho State Lottery for purposes of filing documents in a contested case or a rulemaking are 8:00 a.m. through 5:00 p.m. ()

04. Contested Case Files. Any documents intended to be part of the file in a contested case or a rulemaking must list the case caption or rulemaking docket caption on the front page and include the case number or the rulemaking docket number on the front page. Cover letters to filings in contested cases or rulemaking should be sent to the attention of the Director of the Idaho State Lottery. ()

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. ()

007. DEFINITIONS (RULE 7).

IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," which are hereby incorporated by reference, govern all practice and procedure before the Lottery Commission in contested case proceedings and in rulemaking. As they pertain to this chapter of rules, the following terms used in IDAPA 04.11.01 shall mean: ()

01. Agency. Whenever the term "agency" is used, that term shall mean the Idaho State Lottery. ()

02. Agency Head. Whenever the term "agency head" is used, that term means the Lottery Commission if the term refers to the body with ultimate contested case or rulemaking authority. If the term "agency head" is used to refer to the officer in charge of day-to-day administrative authority for the agency, that term means the Director of the Idaho Lottery. ()

008. -- 999. (RESERVED).

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0102-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7714, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current gaming rules of the Idaho State Lottery that govern bingo and raffles have not been amended to incorporate the extensive changes to the governing statutes enacted in 2005 Idaho Session Law, chapter 356, as well as other amendments made in 2003, 2005 and 2006. These rules are now updated to incorporate and be consistent with those statutory changes.

As the same time, the rules are also amended to clarify practices that have grown up over the years. For example, the first rule contained in these amendments, the definition of audit in Rule 10.01, is clarified to better explain what records are expected to be maintained and be subject to review in an audit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the state's general fund from these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. These rules were reviewed and recommended by the Bingo-Raffle Advisory Board created by Section 67-7704, Idaho Code, which serves many of the same purposes as a negotiated rulemaking--giving input to the persons most affected by the rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Steve Woodall,
Deputy Director for Administration
1199 Shoreline Lane, Boise, ID
P.O. Box 6537, Boise, ID 83707-6737
Tel: 208-334-2600
Fax: 208-334.2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0102-0701

010. DEFINITIONS (RULE 10).

As used in these rules, *the following words have the following definitions* each word defined in Section 010 has the meaning given here unless a different meaning is clearly required from context: (7-1-97)(____)

01. Audit. The review of ~~any or all~~ documents or other records pertaining to ~~the~~ operation of bingo or raffles, including, but not limited to ledgers, bank statements, checks and deposit records, nightly logs ~~recording transactions~~, receipts, register tapes, computer records, contracts and leases, records showing use of gross revenues for charitable activities, and tax records, by representatives of the ~~Idaho State~~ Lottery, the Attorney General, other law enforcement agencies, or independent auditors. (7-1-97)(____)

02. Autodaubing Features or Autodaubing. Electronic bingo card daubers, including software or equipment interfaced with ~~such, which~~ electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called; ~~automatically daubs the numbers as called.~~(3-30-01)(____)

03. Bingo. The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize or prizes determined before the game begins, as elaborated in Subsection 010.03, and other games authorized by Title 67, Chapter 77, and by these Rules, e.g., "U-Pick Em." ~~(See Section 67-7702(1), Idaho Code);~~ (7-1-97)(____)

a. Bingo Cards, Regular. ~~The traditional game of chance played for a prize determined prior to the start of the game.~~ Regular ~~B~~bingo includes games using cards (reusable or disposable) containing five (5) rows of and five (5) columns of squares; arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers; from a range of one (1) through seventy-five (75), except for the center squares, which may be a free space; and a set of designators, similarly numbered, that are contained in a selection device. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B" above the first column and so on). ~~Upon approval of the Bingo-Raffle Advisory Board there may be other forms of Bingo games allowed, such as Blackouts, Bonanza, and "U-Pick Em" games.~~ (3-30-01)(____)

b. Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. (____)

bc. Play Method. Players who have paid consideration for the cards that they are holding compete for a prize or prize(s) by covering numbers on their cards when ~~similarly numbered~~ designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as but not limited to Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo ~~on the last number called.~~ The Each winning card ~~shall~~ must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the ~~accepted pattern~~ predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (7-1-97)(____)

ed. Exclusions from Bingo. Bingo ~~shall~~ does not include "instant bingo," which is a game of chance played by the selection(s) of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (7-1-97)(____)

04. Bingo-Raffle Advisory Board or Board. The board ~~consists of six (6) persons chosen by the Governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho and to determine which Bingo games are allowable in Idaho.~~ See established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (3-30-01)(____)

05. Blackout. A game of bingo where all numbers are covered on a bingo card. This game is also referred to as “coverall.” (7-1-97)(____)

06. Bonanza. A game of bingo that is played on a prefolded card. ~~Wherein~~ or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no “Bingo” called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (7-1-97)(____)

~~**07. Card Minding Machines.** Individual computers that allow players to monitor multiple bingo cards through a centralized “caller” computer.~~ (7-1-97)

087. Charitable Contribution Acknowledgement Report Form or CCARF. A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose ~~shall~~ must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. See Section 67-7709(2), Idaho Code. (3-30-01)(____)

098. Charitable Organization. Any organization ~~that meets the criteria established~~ defined as a “charitable organization” by Section 67-7702(3), Idaho Code. (7-1-97)(____)

109. Charitable Purpose. ~~For~~ A purpose of supporting a bona fide charitable, ~~civic, religious, fraternal, patriotic, or veterans organization or as a non-profit volunteer fire department, or as a non-profit volunteer rescue squad, or as a non-profit volunteer educational booster group, non-profit youth organization, non-profit sports league organization, non-profit parent teacher organization or association, non-profit private and public schools to include but not be limited to organizations exempt from taxation under Sections 501(c)(3), (4), (6), (8), (10), (19) or 501(d) of the Internal Revenue Code of the United States of America~~ organization, as defined by Section 67-7702(3), Idaho Code. (3-30-01)(____)

110. Commission. The Idaho State Lottery Commission ~~as defined in~~ established and appointed according to Sections ~~67-7404~~2, 67-7404(2) and 67-7405, Idaho Code. See Section 67-7702(4). (7-1-97)(____)

121. Concessions. Food ~~items offered~~ and beverages or other incidental items (e.g., caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (7-1-97)(____)

132. Director. The director of the Idaho State Lottery. ~~See~~ appointed and confirmed according to Section 67-7407, Idaho Code. (7-1-97)(____)

143. Disposable Paper Bingo Card. A non-reusable, paper bingo card. ~~Such cards must be manufactured with pre-printed serial numbers and may be assembled in multiple card sheet, single sheet, pad or packet form. A sequential series and serial number must be printed on each individual card.~~ (7-1-97)(____)

154. Distributor. Any person who purchases or otherwise obtains ~~a completed piece of equipment~~ and/or supplies equipment for use in authorized conducting gaming activities, including but not limited to bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment and/or supplies to any person or entity who engages in gaming activity. (7-1-97)(____)

165. Duck Race. A charitable raffle as defined in Section 67-77042(5), Idaho Code. (7-1-97)(____)

16. Electronic Bingo Device. An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards (“mind cards”) only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation. (____)

17. Electronic Gambling Devices. Gaming or gambling devices electronically operated by inserting a

coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming devices can generate points or payout slips for accumulated wins. (7-1-97)(____)

18. Gaming. ~~Gaming means~~ Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Chapters 74 and 77, Title 67, Idaho Code. (7-1-97)(____)

19. Gross Revenues from Bingo or Raffles. All revenues collected for playing bingo or a raffle, excluding concessions. See Section 67-7702(8), Idaho Code. (____)

a. For Bingo. All moneys paid by players during a bingo game or session ~~for the~~ of playing of bingo, or raffle and shall not include fees for use of electronic bingo cards or electronic bingo devices, but excluding money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses. ~~See Section 67-7702(6), Idaho Code. Gross revenues for raffle events (or other gaming) mean the monetary value that would be~~ (____)

b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code. All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses. (3-30-01)(____)

20. Hard Bingo Cards. Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) of annual gross revenue or for special occasions. (7-1-97)(____)

21. Holiday Christmas Tree Fundraiser. A charitable game played by persons bidding on decorated holiday trees, as defined by Section 67-7702(9), Idaho Code. (____)

22. Host System. The computer hardware, software and peripheral equipment used to generate or download electronic bingo cards and to monitor sales and other activities of a site system, as defined by Section 67-7702(10), Idaho Code. (____)

~~23.~~ **Instant Bingo.** A Lottery game played by the use of premarked cards which, when opened, are, by the premarking, scratched or otherwise revealed, determined to be whether the cardholder is a winner without any competition among players participation "Instant Bingo" is not a game of "Bingo" as defined by these Rules. (3-30-01)(____)

~~24.~~ **License.** A permission issued by the director of the ~~Idaho State~~ Lottery ~~to~~ to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (7-1-97)(____)

~~25.~~ **Licensed Game Operator.** A person, ~~business, or organization that~~ who qualifies as a nonprofit or charitable organization who may operate bingo ~~games~~ or raffles, ~~or~~ and who is licensed pursuant to Section 67-7711, Idaho Code. (7-1-97)(____)

~~26.~~ **Suppliers Licensed Vendor.** ~~Vendors, distributors or manufacturers of gaming supplies~~ A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (7-1-97)(____)

27. Lottery. The Idaho State Lottery created by Section 67-7402, Idaho Code, and, as context requires, the Lottery Commission and the Lottery's officers and employees. (____)

~~28.~~ **Manufacturer.** Any person who fabricates or assembles, ~~from raw materials or subparts,~~ a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in ~~authorized~~ gaming activities, including but not limited to bingo and raffles, and who sells or otherwise furnishes the ~~same~~ completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (7-1-97)(____)

249. Net Proceeds of a Charitable Raffle. The ~~receipts~~ gross revenues of a charitable raffle less the cost of prizes awarded. ~~In the case of a duck race, net~~ Net proceeds of a duck race mean receipts gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(43), Idaho Code. Net proceeds of a holiday Christmas tree fundraiser mean the gross revenues less the costs of procuring the tree(s) or other prizes. See Section 67-7710(3). Donated prizes are considered to have no cost and do not reduce ~~amount of the~~ receipts when calculating net proceeds. (7-1-97)(____)

2530. Nonprofit Organization. An organization incorporated under Chapter 3, Title 30, Idaho Code, or an unincorporated association recognized under Chapter 7, Title 53, Idaho Code. See Section 67-7702(711), Idaho Code. (7-1-97)(____)

2631. Organization. A charitable organization or a nonprofit organization—~~See~~ as defined in Section 67-7702(812), Idaho Code. (7-1-97)(____)

32. Person. All individuals, organizations, entities and governments or governmental units included with the definition of “person” in Section 67-7702(13), Idaho Code. (____)

2733. Raffle. An event in which prizes are won by random drawings or other selections of a ~~name or number of ticket, duck or other means of identifying the~~ one (1) or more persons purchasing chances. See Section 67-7702(914), Idaho Code. Duck races and holiday Christmas tree fundraisers are forms of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (7-1-97)(____)

2834. Reusable Bingo Cards. ~~Reusable or hard bingo cards constructed similar to the non-reusable paper cards, by utilizing~~ Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (7-1-97)(____)

2935. Separate Bank Account. A bank account established ~~strictly for gross revenues. See purposes of complying with the accounting requirements of~~ Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (3-30-01)(____)

306. Sessions. A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (7-1-97)(____)

37. Site System. Computer hardware, software and peripheral equipment used by a licensed bingo operator to provide electronic bingo cards, to monitor bingo cards, to provide receipts, and/or to generate reports, as defined in Section 67-7702(16), Idaho Code. (____)

378. Special Committee. Persons (including officers and directors, if so designated) listed on an organization's application for a license who ~~shall be~~ are designated to be responsible to insure that a bingo game or bingo session, conducted by that organization, ~~is will be~~ run according to the requirements of statute and of these rules. If no persons are designated as a special committee, the members of the governing body of the applicant will be held responsible for the operations of the bingo games and sessions or the operations of the raffle. See Section 67-7711(3), Idaho Code. (3-30-01)(____)

329. Special Permit. A permit that can be obtained by an unlicensed charitable organization that ~~is not licensed but~~ qualifies the organization to operate an exempt bingo operation. This permit allows a qualified organization to operate bingo games at a state or county fair for the duration of the fair. See Section 67-7702(17), Idaho Code. (3-30-01)(____)

3340. Tracking. The documentation of sales by sequentially numbered bingo paper in bingo games or numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (7-1-97)(____)

341. U-Pick Ems. A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The

winner is determined by the first player to cover the ~~ir~~ numbers on a "U-Pick-Em" card. (7-1-97)()

3542. Vendor. Any applicant, licensee, manufacturer, distributor, or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or non disposable cards and any and all related gaming equipment. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

100. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS (RULE 100).

All organizations operating bingo games, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct bingo sessions or bingo games in violation of Chapter 77, Title 67, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7707, Idaho Code. Rules 100 through 105 apply to all bingo operators. Rules 106 through 109 apply to operators using paper bingo cards. Rules 110 through 112 apply to operators using electronic bingo machines, as defined in Rule 110. Rules 115 through 118 apply to all bingo operators. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

106. TRACKING REQUIREMENTS IN GAMES USING PAPER BINGO CARDS (RULE 106).

01. Bingo Paper -- for Whom Required. All licensed organizations operating bingo sessions that use paper bingo cards and all ~~non-licensed~~ organizations ~~with an annual gross revenue from bingo exceeding ten thousand dollars (\$10,000)~~ exempt from licensing under Section 67-7713, Idaho Code, that use paper bingo cards must track their bingo sales ~~per~~ for each session by using sequentially numbered/colored bingo paper. Each such organization ~~shall~~ must keep a ledger of the numbers of all ~~such~~ bingo papers used. The non-reusable colored paper cards must ~~have~~ be manufactured with a pre-printed series and a pre-printed serial number on each card. These cards may be assembled in multiple card sheets, single sheets, or packets. A sequential series and serial number must be printed on each individual card. (3-30-01)()

02. Tracking by Game for Bingo Paper. The tracking ~~will~~ may vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (7-1-97)()

03. Tracking by Bingo Paper Packet. If sales are completed by packet, then those packets must not be separated ~~to be sold~~ for sale as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records ~~need only~~ must be retained with permanent records. ~~Tracking records are not required to be submitted with the Annual Bingo Report form.~~ (7-1-97)()

04. Late Players When Bingo Paper Used. Packets of bingo paper sold to late players must have the previously played games sheets removed and voided. The tracking must account for sheets removed and voided. (7-1-97)()

05. Designation of Bingo Paper Color for Games. Each game is assigned a particular color of paper card. Other colors will not be accepted. (7-1-97)()

06. Documentation for Bingo Paper. All bingo paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the permanent records for that bingo operation. Operators may contact the Lottery Enforcement Division for clarification concerning proper documentation to track sold, damaged, donated, or omitted bingo paper. (7-1-97)()

107. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS IN GAMES USING PAPER BINGO CARDS (RULE 107).

01. Pre-Game Duties. Before selecting or calling the first number in any game, the bingo caller must check the machine and balls for defects. This can be ~~accomplished~~ done by running all of the ~~numbered~~ balls through the machine and placing them in their assigned slots ~~to determine that there is one (1) ball for each number and only one (1) ball for each number.~~ The caller will draw numbers for the Bonanza, Progressive or Hot Ball games if used and verified by a player. The caller must announce the color of paper card assigned to each game, the pattern or arrangement of squares to be covered to win the game, and the prize amount. (7-1-97)(____)

02. Displaying Numbers During Play. ~~After selecting~~ Each time that a number is selected, the bingo caller ~~shall:~~ must (7-1-97)

~~a. Display and Removal. D~~display the ball or other designator in a receptacle ~~so as~~ to prevent it from being placed back into the selection pool. If electronic display boards are used the placement of the selected ball ~~shall~~ should activate the number or if not, the operator ~~shall~~ is required to manually activate each number on the board. (7-1-97)(____)

~~b03.~~ **End of Game.** After ~~each~~ a winner has been verified as set forth in Rule 108, the caller ~~will~~ must ask ~~for if there are~~ additional winners; ~~if they exist. If none~~ After asking for and verifying whether there are additional winners, the game ~~will~~ must be declared ~~ended~~ to be completed, and the ball machine ~~will~~ must be cleared for the next game. (7-1-97)(____)

108. DETERMINING WINNERS WHEN A PLAYER USING A PAPER BINGO CARD CLAIMS TO BE A WINNER (RULE 108).

01. Winning Cards. ~~A~~ Winners winning card are determined when is a card upon which the numbers ~~drawn by the caller cover the announced pattern previously designated arrangement of winning squares is covered on a player(s') card.~~ (7-1-97)(____)

02. Player's Responsibility. It is the players responsibility to notify the game operator or caller that the player has a winning ~~bingo combination~~ card. The player(s) must yell "bingo" loud enough for the caller to hear ~~them~~ the player. (3-30-01)(____)

03. Game Stops to Verify Winner. When a player ~~declares~~ announces a winning card, the game must stop for winner verification ~~should includes stopping the game~~ before the next number is selected. The game ~~shall~~ must be secured so that it can be continued if the declaration of a winning bingo ~~be invalid~~ card is incorrect. If a player mistakenly announces a winning card and the card is not a winner, the game proceeds until a winner is declared. (7-1-97)(____)

04. Verification of ~~Winner~~ Winning Card(s). To verify a winning card or cards, a game bingo operator's employee or volunteer must call back the ~~winning~~ combination of numbers in the assigned pattern and the color of the paper card. The caller must verify the numbers called back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor must reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. ~~If it is invalid, the game proceeds until a winner is declared.~~ Once a winner is declared the caller must announce "one (1) good winner" or "two (2)" or more if it applies to the game. (7-1-97)(____)

05. Prizes for Multiple Winners. If more than one (1) winner is declared, cash prizes must be divided equally, and merchandise prizes of equal value must be awarded. (7-1-97)(____)

109. MISCELLANEOUS RULES FOR GAMES USING NON-ELECTRONIC BINGO CARDS (RULE 109).

01. Hard Cards. Unlicensed ~~€~~charitable or nonprofit organizations with an annual gross bingo revenue of ten thousand dollars (\$10,000) or less may use hard cards. A licensed organization may request a special one (1) time use of hard cards for community fund-raising projects that it is sponsoring. No hard cards ~~shall~~ are

allowed to be reserved for any players, with the exception of Braille cards. (~~3-30-01~~)()

- 02. Braille Cards.** Braille cards are allowed in any bingo game for use by individuals who need them. (3-30-01)
- 03. Two Part Disposable Cards.** Two (2) part disposable cards may be used in “U-Pick-Em” games, if: (7-1-97)
- a. Original and Duplicate Copies.** The cards are printed on two (2) part, self-duplicating paper that provides for an original and duplicate copy; (7-1-97)
- b. Operating Controls.** Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are verified by a worker authorized by the bingo manager; and (7-1-97)
- c. Retention and Play of Duplicate Copy.** The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operators daily bingo records. (7-1-97)
- 04. Card-Minding Devices.** Card-minding devices are prohibited unless they meet the requirement for allowable electronic bingo devices set forth in Section 67-7702(7)(a)(i) thorough 67-7702(7)(a)(iv). (~~3-30-01~~)()
- 05. Autodaubing Features.** Autodaubing features are prohibited. (3-30-01)
- 06. Use of Nonreusable Cards.** With the exception of Braille bingo cards authorized for use pursuant to Subsection 109.02, every organization that uses nonreusable paper bingo cards must use only nonreusable colored bingo paper or electronic bingo paper so that all sales can be tracked. Nonreusable colored bingo paper must have a series and serial number on each card. After each bingo session, an organization using nonreusable bingo paper must track its bingo sales for that session by recording the series and serial numbers of all paper sold, damaged, donated, used for promotion, or omitted by the manufacturer or distributor. See Section 67-7709(3), Idaho Code. ()

110. BINGO OPERATIONS USING ELECTRONIC BINGO MACHINES (RULE 110).

- 01. Electronic Bingo Machines Defined.** Electronic bingo cards, electronic bingo devices, host systems, and/or site systems are individually and collectively called electronic bingo machines in these rules. ()
- 02. Use of Approved Hardware and Software.** All organizations that offer or use any electronic bingo machines during play must use hardware and/or software approved by the Commission, provided that printers used in connection with site systems may be obtained from any source. See Sections 67-7716 and 67-7719(1), Idaho Code. ()
- 03. List of Approved Hardware and Software.** The Director must maintain a list of approved hardware and software for electronic bingo machines. The Director must promptly update the list after any hardware or software is added or deleted from the list. ()
- 04. Requirements for Approved Site Systems.** All site systems licensed by the Commission must have the ability to track, either with or without input from the bingo game’s operators, the number of games played that are connected to the site system, revenue from the games played that are connected to the site system, the number of winners who are connected to the site system, and the distribution of cash and merchandise prizes to winners connected to the site system for each session played using the site system. ()
- 05. Inspection and Testing.** All electronic bingo machines used by bingo game operators and all records that the electronic bingo machines generate must be available to be inspected and/or tested to determine whether the electronic bingo machines are properly functioning. Any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, is authorized to conduct an inspection and testing. See Section 67-7717(8) and –

(9). Idaho Code. ()

06. Pre-Game Testing. The Director or Lottery Security Division may by letter or other written communication prescribe appropriate pre-game testing procedures for electronic bingo machines as in their judgment are necessary for the particular hardware and software used. ()

111. REQUIREMENTS FOR BINGO GAME OPERATIONS USING ELECTRONIC BINGO MACHINES (RULE 111).

01. Maximum Number of Faces. Electronic bingo devices are hereby prohibited from monitoring more than fifty-four (54) faces (electronic bingo cards) per game. All electronic bingo devices are required to be restricted by their hardware or software so that they can monitor no more than fifty-four (54) faces per game. See Section 67-7717(1), Idaho Code. ()

02. Identification Number. Every electronic bingo device that requires a site system to download electronic bingo cards to the device must comply with the requirements of Section 67-7717(2), Idaho Code, concerning identification numbers. ()

03. Erasing Numbers. Every electronic bingo device must be programmed to erase electronic bingo cards and/or bingo card face numbers after a session has been completed, as required by Section 67-7717(3), Idaho Code. ()

04. Players Cannot Choose Numbers. No electronic bingo device that allows bingo players to design their own bingo cards by choosing, rearranging, or placing numbers on a card is permitted. See Section 67-7717(4), Idaho Code. ()

05. Connections to Site System. Site systems are prohibited from engaging in sales, voids, or reload transactions for an electronic bingo device unless the device is connected to and communicating with the site system. See Section 67-7717(5), Idaho Code. ()

06. Printouts. Site systems must be electronically connected to an on-site printer that upon request is capable of printing a transaction log for each player that shows the device identification number and all bingo cards and face numbers loaded into the device. The site system must be able to record and print on-site a receipt showing the device identification number, the date of the bingo session, the number of electronic bingo cards purchased or loaded, and the total amount charged for each of the electronic bingos cards. This receipt must be given to the player on request or as required by any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative. See Section 67-7717(6), Idaho Code. The site system must be connected to an on-site printer that can print the winning game combinations for the entire bingo session. This printout must be available on demand for the entire session. See Section 67-7717(7). ()

07. Malfunctioning Electronic Bingo Machines. ()

a. When Discovered by the Lottery or Other Officers. Whenever the Lottery or any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue its use as directed by a representative of the Lottery or correct the malfunction or other problem as directed by a representative of the Lottery. Failure to take the directed action may result in confiscation or seizure of the electronic bingo machine that is malfunctioning or has other problems. See Section 67-7717(8), Idaho Code. ()

b. When Discovered by Licensees or Others. Whenever a manufacturer, a distributor, a licensed bingo operation, a player, or any other person detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue the use of that electronic bingo machine and notify the Commission by telephone no later than the next working day of the action taken and the nature of the malfunction or other problem. The Commission may request further written explanation as necessary. See Section 67-7717(9), Idaho Code. For purposes of this paragraph, notification to an officer or employee of the

Lottery Security Division will be considered notification to the Commission. ()

08. Receipts. The cash register or the site system must provide a receipt for the sale of all bingo cards used in conjunction with an electronic bingo device. Additional paper bingo cards must be separately receipted. The cash register receipt and the player's receipt must identify and show the sale of disposable paper bingo cards separately from receipts for electronic bingo cards. See Section 67-7719(12), Idaho Code. ()

112. PLAY USING ELECTRONIC BINGO MACHINES (RULE 112).

01. No Player-Owned Devices. Use of player-owned electronic bingo devices is prohibited. See Section 67-7719(2), Idaho Code. ()

02. Provision of Devices. Only the bingo game operator can provide electronic bingo devices. The operator may charge for the use of an electronic bingo device. If there is a charge for use of an electronic bingo device, the fee must be separately stated on the cash register and the bingo player's receipt and must be included in the gross revenues. See Section 67-7719(3) and -(11), Idaho Code. ()

03. Use of Devices on Premises. A player using an electronic bingo device must be on the premises during play to be eligible to play bingo or to win a prize. See Section 67-7719(3), Idaho Code. ()

04. Available Devices. Electronic bingo devices must be made available on a first-come, first-served basis, and no device can be reserved for any player, except a device may be reserved for players with a disability (within the meaning of the Americans with Disabilities Act) if the disability would restrict or impair the player's ability to mark bingo cards. A bingo game operator may provide and reserve electronic bingo devices exclusively for persons with disabilities and forbid their use by all other persons. See Section 67-7719(5), Idaho Code. ()

05. One Device Per Player. It is prohibited for any player to use more than one (1) electronic bingo device at a time. See Section 67-7719(6), Idaho Code. No electronic bingo device can be used to monitor hard bingo or shutter cards. See Section 67-7719(7). ()

06. Reserve Devices. Every bingo game operator using electronic bingo devices must keep at least one electronic bingo device in reserve as a backup in case a device in use malfunctions. See Section 67-7719(4), Idaho Code. A reserve device is not considered an available device under paragraph 04 of this Rule. If a reserve device is put in use to replace a malfunctioning electronic bingo device, and if there are no more unused electronic bingo devices available to serve as a reserve device, the operator is not required to take an electronic bingo device from a player that is then using the device in order to maintain a reserve device, and the operator may continue to offer bingo games without a reserve device throughout the remainder of the session, unless one or more electronic bingo devices are turned in before the session ends, in which case a device that was turned in must then become the reserve device. ()

07. Loading Electronic Bingo Devices. A bingo operator using an electronic bingo device is prohibited from downloading electronic bingo cards into an electronic bingo device before payment by the player. The player must be on the bingo operator's premises when the device is downloaded with electronic bingo cards. The device can only be downloaded with electronic bingo cards during the session. See Section 67-7719(10), Idaho Code. Players are prohibited from choosing or rejecting individual electronic bingo cards loaded into an electronic bingo device. See Section 67-7719(8), Idaho Code. ()

08. Additional Paper Cards. When a player who has purchased fifty-four (54) bingo cards per game is using an electronic bingo device to monitor up to fifty-four (54) cards, a bingo operator may allow the player to purchase additional disposable paper bingo cards to play using a manual daubing or marking method. See Section 67-7719(9), Idaho Code. ()

09. Other Requirements. The Director or Lottery Security Division may by letter or other written communication prescribe appropriate procedures for play and determination of winners and other matters generally covered by Rules 107 through 109 for paper bingo cards whenever it is necessary to do so in conjunction with the use or playing characteristics or other attributes of a given hardware or software. These letters are public records within the meaning of Sections 9-337 through 9-347, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

1105. LIMITS ON BINGO OPERATION'S PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES (RULE 1105).

01. Applicability. All organizations conducting bingo games, whether licensed or unlicensed, must adhere to the required limits of statute and of this rule in dedicating their gross revenues from bingo operations. These limits and/or percentages pertain to annual gross revenues during a twelve (12) month ~~period or~~ license year. See Section 67-7708, Idaho Code. (7-1-97)(____)

02. Maximum Payout Ratio. A maximum payout ratio of prizes to annual gross revenues of sixty-five percent (65%) ~~of annual gross revenue~~ is allowed ~~as prize payouts~~. If agreed by the board of directors of the organization, the ratio of prizes to annual gross revenue may be increased to seventy percent (70%), but any increase in payout ratios above sixty-five percent (65%) must be made up by an equal reduction from the maximum percentage of fifteen percent (15%) that can be allocated to expenses under ~~Subsection 310.05~~ Section 67-7709(1)(d), Idaho Code. For example, if the board of directors of an organization decides to increase the maximum prize payout ratio by three percent (3%) from sixty-five percent (65%) to sixty-eight percent (68%), then the maximum amount of annual gross revenues that can be allocated to expenses must be reduced by three percent (3%) from fifteen percent (15%) to twelve percent (12%). See Section 67-7709(1)(d), Idaho Code. (7-1-97)(____)

03. Donated Merchandise. Donated merchandise offered as prizes is not included in the prize amounts paid out when calculating the prize payout ratio. The organization conducting the bingo game must document the value of the donated items, describe the donated items, and list the donated items on the daily reports as prizes. (7-1-97)

04. Donated Cash Funds Prohibited. Donated cash may not be offered as prizes in bingo games nor deposited into the separate bingo account. (7-1-97)

1146. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (RULE 1146). All payments for expenses and donations for charitable purposes must be paid by check from the Separate Account and recorded in the bingo ledger. See Section 67-7709(1)(a)-(c), Idaho Code. (3-30-01)(____)

1127. MINIMUM CHARITABLE OR NONPROFIT DONATION (RULE 1127). A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization(s) to be used for charitable purposes. See Section 67-7709(1)(d), Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organization(s) to be used for charitable purposes. (3-30-01)(____)

1138. MAXIMUM PRIZES (RULE 1138). ~~By this rule the Commission exercises is authority over~~ ~~the~~ maximum prizes are ~~defined~~ set forth in Section 67-7708, Idaho Code. (7-1-97)(____)

01. Maximum Prize for One Game. ~~The maximum prize in cash and merchandise that may be offered for any one (1) bingo game is three thousand dollars (\$3,000).~~ (____)

02. Maximum Prizes for One Session. ~~The total of the maximum prizes in cash and merchandise that may be offered at any one (1) bingo session is twenty-five thousand dollars (\$25,000).~~ (____)

~~114--~~119. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

202. MAXIMUM PRIZES (RULE 202).

The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race or a holiday Christmas tree fundraiser, is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. For duck races, there shall be no limit on the maximum amount of the value of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as a raffle prize so long as the merchandise is not redeemable for cash. There is no limit on the maximum value of a tree that may be raffled in a holiday Christmas tree fundraiser. There is no limit on the maximum value for the merchandise used as prizes for a duck race or a holiday Christmas tree fundraiser if the merchandise is not redeemable for cash. See Section 67-7710(3), Idaho Code. (3-30-01)()

203. REQUIREMENTS FOR DONATION TO CHARITY -- LIMITATION ON EXPENSES (RULE 203).

At least ninety percent (90%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 010.279.) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Idaho Lottery. The annual raffle report ~~shall~~ must also include the charitable purpose for which the charitable donation was used by the charitable organization or non-profit organization. A maximum of ten percent (10%) of net proceeds is allowed for expenses. See Section 67-7710(3), Idaho Code. (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

302. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 302).

01. Background Check of Applicants. The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the special committee. The members of the governing board ~~shall~~ will be considered the de facto special committee if the governing board has not designated a special committee in its application. See Section 67-7711(3), Idaho Code. The signature from the organization's representative ~~(on the second page)~~ application gives the Lottery authority ~~to the Idaho State Lottery~~ to conduct investigations of members of the special committee. The persons listed on the application must be officers or directors of the organization or members of the special committee applying for a license. (7-1-97)()

02. Proper Identification. The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer, director or member of the special committee in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (7-1-97)()

03. Charitable Organizations. The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the State Tax Commission that indicates that the organization is a charitable organization and ~~stating~~ that states the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post ~~or~~ of chapter or a national organization, a copy of the determination letter of the national organization ~~shall~~ will satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. (7-1-97)()

04. Incorporated Nonprofit Organizations. The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the Secretary of State pursuant to Chapter 3, Title 30, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. (7-1-97)()

05. Unincorporated Nonprofit Associations. The application of an unincorporated nonprofit association operating pursuant to Chapter 7, Title 53, Idaho Code, must include a statement meeting the requirements of Section 53-710, Idaho Code, for appointing an agent for service of process. See Section 67-7711(2)(c)(iii), Idaho Code. (7-1-97)

06. Locations. The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-97)

07. License Year and Fiscal Year. ~~An~~ organizations may apply for ~~the~~ a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (7-1-97)()

08. Failure to Provide Information. Failure to provide all ~~required~~ information ~~will~~ required for an application may result in a delay in ~~granting~~, considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

305. ~~APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ACTION ON LICENSES~~ (RULE 305).

01. Applications for Licenses. An application for a license will be approved, denied or dismissed in writing within fifteen (15) days of receipt of the written application, except as provided in Section 67-7712(2)(j), Idaho Code, when a criminal prosecution of an applicant is pending or an appeal from a criminal prosecution of an applicant is pending. The application will be denied if the applicant does not meet the requirements of statute and of these rules. If an application is not received fifteen (15) days in advance of a proposed event, it is possible that a license may not be granted before the event, and the event will not be allowed to proceed without a license. See Section 67-7711(1), Idaho Code. ()

02. Issuance of Licenses. A license will be issued when an application for a license is approved. A license expires one (1) year after its issuance. See Section 67-7711(1), Idaho Code. ()

03. Notice of Intended Actions. ~~If the Idaho State Lottery has~~ intends to deny an application for a license or the renewal of a license or intends to revoke, cancel, rescind or suspend a license, it will provide fifteen (15) days' ~~to approve, deny or dismiss an application for a license, provided that at the request of the applicant the Idaho State Lottery may defer decision for a longer time~~ written notice to the applicant or to the licensee of the Lottery's intent to deny, revoke, cancel, rescind or suspend the license and of the general basis for its intended action. If the applicant or licensee does not agree to the Lottery's intended action, the applicant or licensee must in writing request a hearing with the fifteen (15) day notice period. If a timely written request for a hearing is made, the hearing will be conducted in the same manner as a contested case hearing under Chapter 52, Title 67, Idaho Code. If a timely written request for a hearing is not made, the intended action is final and not subject to appeal. See Section 67-7712(23)(j), Idaho Code. ~~The application will be approved, denied or dismissed in writing. If an application is not received fifteen (15) days in advance of a proposed event, a license may not be granted and the event will not be allowed to proceed.~~ (7-1-97)()

306. SUSPENSION OR REVOCATION OF LICENSE--CIVIL AND CRIMINAL PENALTIES (RULE 306).

~~Any licensed organization found in~~ Violation of the bingo and raffle statutes or of these bingo/raffle rules or of any conditions of its a license may face be grounds for administrative, civil or criminal actions. ~~This includes~~ but is not limited to suspension of operations, license revocation, penalties, and/or fines. See Section 67-7707, Idaho Code. See also Sections 7500 through 7504 of this rule. (7-1-97)()

307. EXEMPTION FROM LICENSING AND LICENSING FEES (RULE 307).

See Section 67-7713, Idaho Code, exempts charitable and non-profit organizations operating certain low-stakes bingo

or raffle games from licensing.

(7-1-97)()

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license if ~~the~~ its gross annual bingo sales (gross revenues from bingo operations) are less than ten thousand dollars (\$10,000) ~~and/or if the aggregate total amount for prize(s) offered, in cash or merchandise for any one (1) session, is less than one thousand dollars (\$1,000).~~

(3-30-01)()

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license ~~or pay a license fee for a raffle, if the gross annual raffle sales are less than ten thousand dollars (\$10,000) and/or to~~ conduct a raffle the maximum aggregate value of merchandise awarded as prizes for the raffle does not exceed one thousand dollars (\$1,000).

(3-30-01)()

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Idaho Lottery.

(7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

SUBCHAPTER E -- VENDORS AND VENDORS' LICENSES AND FEES
- APPROVED GAMING DEVICES

(BREAK IN CONTINUITY OF SECTIONS)

401. LICENSE FEES (RULE 401).

Each initial application for a vendor's license must be accompanied by a five hundred dollar (\$500) non-refundable annual license fee that ~~shall be~~ is due upon submission of the application. An application form approved by the ~~Idaho State~~ Idaho State Lottery, completed with all required information, must be submitted along with the appropriate fee to the ~~Idaho State~~ Idaho State Lottery Security Division. See Section 67-7715(3)-(45), Idaho Code.

(3-30-01)()

402. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 402).

01. Identification of Applicants. The application for initial license and for renewal of a license ~~shall~~ must list:

()

a. Personal Data and Corporate Data. ~~†~~The name, address, date of birth, driver's license number and social security number of the applicant, and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated and the financial information required to complete the application form. See Section 67-7715(3)(a).

(7-1-97)()

02b. Locations. The locations from which or persons with which the applicant will provide any gaming devices, equipment or material in this state or for use in this state. See Section 67-7715(3)(b).

(7-1-97)()

032. Financial Reports Incomplete Applications. Financial reports submitted with the license application ~~shall~~ will be reviewed as part of the background investigation. All requested data must be included on the application to avoid any delay. The application may be dismissed if it is incomplete.

(7-1-97)()

403. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE (RULE 403).

The ~~Idaho State~~ Lottery has fifteen (15) days to approve, deny or dismiss an application for a vendor's license,

provided that at the applicant's request ~~of the applicant~~ the *Idaho State* Lottery may defer decision for a longer time. The application will be approved, denied or dismissed in writing. The *Idaho State* Lottery will issue Vendor Licenses to ~~businesses or persons~~ successful applicants ~~who manufacture, furnish or sell gaming devices, equipment, or materials designed and permitted to be used in connection with charitable or nonprofit bingo or raffles~~. See Section 67-7715, Idaho Code. (7-1-97)(____)

404. SUSPENSION OR REVOCATION OF LICENSE (RULE 404).

Any licensed vendor ~~found~~ in violation of statute or ~~of~~ these ~~vendors'~~ rules or ~~of~~ any conditions of its license may face suspension or revocation ~~of the its~~ vendor's license ~~and activities taken pursuant to the vendors license or license revocation~~. (7-1-97)(____)

405. -- 409. (RESERVED).

40510. GAMING DEVICES, EQUIPMENT OR MATERIALS (RULE 40510).

Gaming devices, equipment, and materials include but are not limited to: (7-1-97)

01. Number Selectors and Related Equipment. Number selection machines, manual mixing drums, or computerized random selectors, ~~site systems, host systems and/or other electronic bingo machines used to select numbers for bingo or raffles are gaming devices, equipment or materials.~~ (7-1-97)(____)

02. Bingo Cards. Numbered paper bingo cards and hard bingo cards ~~designed with five (5) columns of random numbers ranging between one (1) and seventy five (75) corresponding to the appropriate B-I-N-G-O columns as described in Subsection 010.03.a. This may also include~~ Bonanza cards, and "U-Pick-Ems," and electronic bingo cards, are gaming devices, equipment or materials. (7-1-97)(____)

03. Miscellaneous. Daubers, raffle tickets, record keeping materials, electronic bingo devices and other items used in the operation of bingo and/or raffles are gaming devices, equipment or materials. (7-1-97)(____)

40611. PAPER BINGO CARD MANUFACTURERS STANDARDS (RULE 40611).

Card manufacturers ~~shall~~ must follow these ~~recommended~~ standards for paper cards: (7-1-97)(____)

01. Quality of Paper. The paper ~~shall~~ must be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet ~~thereby~~ and obscuring other numbers or cards. (7-1-97)(____)

02. Random Assignment of Numbers. Numbers printed on the card should ~~shall~~ must be randomly assigned. (7-1-97)(____)

03. Serial Numbers. Each set of cards ~~shall~~ must be comprised of cards bearing the same serial number. No serial number ~~shall~~ may be duplicated by a manufacturer in a given year. (7-1-97)(____)

04. Packet Assembly. Cards assembled in books or packets ~~shall~~ must be glued, not stapled. (7-1-97)(____)

05. Labeling. A label ~~shall~~ must be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (7-1-97)(____)

06. Packing Slips. A packing slip inside each case ~~shall~~ must list the same information as listed on the label. (7-1-97)(____)

40712. NUMBER SELECTORS (RULE 40712).

All number selectors for bingo operations must be approved by the Lottery Commission after review and advice by the Bingo-Raffle Advisory Board. Electronic random selectors must interact with players. Auto daubing systems for paper bingo cards are prohibited. (3-30-01)(____)

413. DISTRIBUTION AND USE OF ELECTRONIC BINGO MACHINES (RULE 413).

01. Approved Sources. A licensed distributor of electronic bingo machines must purchase, rent, lease or otherwise provide electronic bingo machines only from a licensed manufacturer and must purchase, lease, rent, or other provide only electronic bingo machines that have been approved by the Lottery Commission. See Section 67-7718(1), Idaho Code. ()

02. Approved Users. A licensed distributor of electronic bingo machines is permitted to sell, rent, lease or otherwise provide electronic bingo machines only to licensed bingo operators. See Section 67-7718(2), Idaho Code. ()

03. Initial Use. The licensed distributor of electronic bingo machines must notify the Commission in writing of the sale, rental, lease, provision and/or installation of any electronic bingo machines before a licensed bingo operator's first use of the machines. See Section 67-7718(3), Idaho Code. The notice must include: ()

a. Licensed Operator. The complete name and address of the licensed bingo operator and their license number. ()

b. Equipment Provided. The type of equipment and the serial numbers of equipment that was sold, rented, leased, provided or installed. ()

c. Start-Up Date. The expected date upon which the licensed bingo operator will begin to use the equipment. ()

d. Agreement. A copy of any and all agreements or contracts between the licensed distributor and the licensed bingo operator regarding use of the equipment. ()

04. Installation, Maintenance, Service and Repair. The licensed distributor must be the initial contact for installation, service, maintenance and/or repair of electronic bingo machines and for ordering electronic bingo cards. The distributor may enlist the manufacturer's assistance for installation, service, maintenance and/or repair of electronic bingo machines. With the Commission's approval, a licensed manufacturer may authorize or subcontract with others for service, repair or maintenance of electronic bingo machines, but the licensed manufacturer retains ultimate responsibility and liability for service, maintenance and repair. See Section 67-7718(4), Idaho Code. ()

05. Invoices and Payments. The licensed distributor of electronic bingo machines must be the person who invoices for and collects payments for a licensed bingo operator's use of electronic bingo machines. The manufacturer may generate the invoice. All payments must be to the distributor and not the manufacturer. The invoice must contain the licensed distributor's name, complete address and license number of the licensed bingo operator. See Section 67-7718(5), Idaho Code. ()

06. Transportation of Electronic Bingo Devices. A licensed distributor may transport electronic bingo devices from one (1) location to another for use by one (1) or more licensed bingo operator(s) after the distributor has notified the Commission in writing of its schedule for rotating the electronic bingo devices from one (1) location to another. The notification must list the locations at which the devices will be used and must name the licensed bingo operators that will be using the devices at each location. See Section 67-7718(6), Idaho Code. ()

07. Site Systems and Transportation of Site Systems. Each licensed bingo operator that uses a site system must have its own site system. A licensed bingo operator that uses a site system cannot transport its site system from one (1) location to another or allow another bingo operator to use its site system without prior written approval from the Commission. See Section 67-7718(6), Idaho Code. ()

40814. -- 499. (RESERVED).

SUBCHAPTER F -- SUSPENSION, REVOCATION, OR DENIAL OF A LICENSE

500. SUSPENSION, REVOCATION OR DENIAL OF LICENSE (RULE 500).

Any ~~person, business, vendor, or organization~~ licensee or applicant for a license found by a court of competent jurisdiction or by the Lottery pursuant to the procedures of section 67-7712, Idaho Code, to be in violation of any statutes or rules governing ~~the~~ operating, supplying of equipment for, participating in, or establishing of ~~charitable or nonprofit~~ gaming in the State of Idaho may be subject to suspension, revocation or denial of its license. See Section 67-7712 and 67-7715, Idaho Code. (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

502. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES (RULE 502).

The ~~State~~ Lottery may, upon its own motion, or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized by Chapter 77, Title 67, Idaho Code, or by these rules, whether the gaming is conducted by a licensed or an exempt operation, and whether gaming equipment or supplies comply with the requirements of Chapter 77, Title 67, Idaho. If the ~~State~~ Lottery has reasonable cause to believe that any gaming described in Chapter 77, Title 67, Idaho Code, or in these rules, violates the provisions of the Idaho Code or of these rules, in its discretion it may in its discretion under the procedures set forth in Section 67-7712(3), Idaho Code, and as provided by these rules propose to revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or it may refuse to grant a renewal of the license, or it may take other action as may be appropriate under Idaho Code or these rules. See Section 67-7712(3), Idaho Code. (7-1-97)(____)

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION
52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY
DOCKET NO. 52-0103-0701 (FEE RULE - NEW CHAPTER)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho State Lottery has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 67-7408(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than September 19, 2007.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This new chapter 52.01.03, will contain only rules governing the operation of the Idaho State Lottery. Further, it is now time to revisit the language and substance of the Lottery rules to bring them into conformity with current practice and legal requirements. For example, Rules 0 through 6 are added to meet the requirements of the Administrative Rules Coordinator. Rule 10, definitions now incorporate amendments to the Lottery statutes made since Rule 10 was first adopted in 1993. Wherever possible, rules are simplified and made consistent. For example, there were three similar but not identical rules on how to treat Lottery winnings paid to an estate. These rules make them identical. See Rules 100.17, 202.14, and 204.15. For the most part there are no substantive changes intended from current practice, only clarification and conformance with changes in the law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are imposed or increased: Existing fees remain unchanged.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the state's general fund from these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. The Lottery Rules do not govern the general public or certain identified industries. The Lottery rules govern the Lottery itself and those contract with the Lottery and who play its games. Given the contractual nature of the Lottery's interaction with the persons most affected by these rules, the Lottery drew upon its knowledge of its contractors and customers to formulate its rule changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical question concerning the proposed rule, contact Steve Woodall, telephone 208-334-2600/fax 208.334.2610/e-mail: swoodall@lottery.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Steve Woodall and must be delivered to the Idaho State Lottery on or before September 26, 2007.

DATED this 3rd day of August, 2007.

Steve Woodall
Deputy Director for Administration
Idaho State Lottery Commission
1199 Shoreline Lane
P.O. Box 6537, Boise, ID 83707-6737
Tel: 208-334-2600 / Fax: 208-334.2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0103-0701

IDAPA 52
TITLE 01
CHAPTER 03

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted under the general legal authority of Title 67, Chapter 74, Idaho Code, and the specific legal authority of Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code. ()

001. TITLE AND SCOPE (RULE 1).

The title of these rules are 52.01.03, "Rules Governing Operations of the Idaho State Lottery." ()

002. WRITTEN INTERPRETATIONS (RULE 2).

All written interpretations of these rules are available for public inspection and copying at the offices of the Idaho State Lottery, 1199 Shoreline Lane Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS (RULE 3).

There are no contested cases and no administrative appeals under Title 67, Chapter 74, Idaho Code, or under these rules. ()

004. INCORPORATION BY REFERENCE (RULE 4).

These rules do not incorporate by reference any other legal authority. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

01. Street Address. The Idaho State Lottery is located at 1199 Shoreline Lane, Boise, Idaho 83702. ()

02. Mailing Address. The Idaho State Lottery's mailing address is PO Box 6537, Boise, Idaho 83707-6537. ()

03. Office Hours. The office hours of the Idaho State Lottery for purposes customer service are 8:00 a.m. through 6:00 p.m. ()

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. ()

008. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

As used throughout these rules these terms have the following definitions: ()

01. Administrative Costs. Personnel costs, capital outlay, and reasonable expenses incurred by other state agencies to effectuate the purposes of Title 67, Chapter 74, Idaho Code. See Section 67-7404(1), Idaho Code. ()

02. Benefit. Any thing, property or money, favorable consideration or advantage, profit, privileges, ()

gain or interest to which a person is not otherwise entitled. ()

03. Certificate. The signed document issued by the Director authorizing a retailer to sell Lottery products. ()

04. Commission or State Lottery Commission. The Commission established and appointed as provided by Chapter 74, Title 67, Idaho Code. See Section 67-7405, Idaho Code. ()

05. Commissioner. A member of the Idaho State Lottery Commission. ()

06. Control Person. A person in a position of authority that is primarily defined according to organizational type. The following are control persons: ()

a. In a privately-owned corporation, the officers, directors, and stockholders of the parent company who own five percent (5%) or more of the company's stock and, if applicable, any of its subsidiaries. ()

b. In a publicly-owned corporation, the officers and directors of the parent company and each of its subsidiaries. Additionally, stockholders who own five percent (5%) or more of the corporation's stock are control persons. ()

c. In a trust, the trustee and all persons entitled to receive income or benefit from the trust ()

d. In an association, the members, officers, and directors. ()

e. In a partnership or joint venture, the general partners, limited partners, or joint venturers. ()

f. A member of the immediate family of any of who is a control person under parts a through e of this definition. ()

g. A subcontractor of a Vendor if the subcontractor performs more than half of the Vendor's contract with the Lottery. ()

07. Director. The Chief Executive Officer of the Lottery or any other person to whom the Director's authority has been delegated, in writing, by the Director before the action was taken. See Section 67-7404(3), Idaho Code. ()

08. Executive Staff. The director of Lottery Security and the deputy directors appointed by the Director. ()

09. Expenses. All costs of the Lottery's doing business including, but not limited to, prizes, commissions and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital outlay, reasonable expenses incurred by other state agencies to effectuate the purposes of this chapter, depreciation of property and equipment, and other operating costs, all of which are to be recorded on the accrual basis of accounting in accordance with generally accepted accounting principles. See Section 67-7404(4), Idaho Code. ()

10. Fiscal Year. The Lottery's fiscal year of twelve (12) months beginning on July 1 and ending on June 30. ()

11. Gift. A transfer, exchange or delivery of anything, property or money, of any value whatsoever, with or without an expectation by the giver to receive anything, tangible or intangible, in return. ()

12. Immediate Family. A natural person's spouse, children, brother, sister, or parent by blood, marriage, or adoption who resides as a member of the same household in the principal place of residence of any contractor, vendor, retailer, member, or employee of the Idaho State Lottery. ()

13. Instant Game. A game in which a ticket is purchased and upon removal of a latex or similar secure covering on the front of the ticket, the ticket bearer determines his or her winnings, if any. ()

- 14. Invitation to Bid.** The solicitation of competitive offers in which specifications, price, and delivery (or project completion) will be the predominant award criteria. ()
- 15. Lottery or State Lottery.** The Idaho State Lottery, established and operated pursuant to the constitution and the Idaho State Lottery Act of 1988. See Section 67-7402, Idaho Code. ()
- 16. Lottery Contract or Contract.** Any contract entered into either by the Lottery or for the Lottery by another public agency, for the purchase, lease, or sale of goods or services. ()
- 17. Lottery Contractor or Contractor.** A person with whom the Lottery has contracted for the purpose of providing goods and services for the Lottery. See Section 67-7404(6), Idaho Code. ()
- 18. Lottery Employee or Employee.** Any person who works full- or part-time for the Lottery. ()
- 19. Lottery Game or Game.** Any procedure authorized by the Commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes. Lottery game themes shall be approved by the Commission, shall be consonant with the dignity of the state. ()
- 20. Lottery Game Retailer or Retailer.** A person with whom the Lottery has issued a certificate to and contracted for the purpose of selling tickets or shares in Lottery games to the public. See Section 67-7404(7), Idaho Code. ()
- 21. Lottery Revenue.** Revenue derived from the sale of Lottery tickets and shares. Lottery revenues are recorded on the accrual basis of accounting in accordance with generally accepted accounting principles. See Section 67-7404(8), Idaho Code. ()
- 22. Lottery Vendor or Vendor.** Any person who submits a bid, proposal, or offer to provide goods or services for the Lottery for major procurement contracts. See Section 67-7404(9), Idaho Code. ()
- 23. Low, Medium and High Tier Claims.** The relative dollar amount of prizes awarded in accordance with rules of the Lottery. See Section 67-7409(10), Idaho Code. ()
- 24. Major Procurement.** Any contract with a vendor supplying Lottery tickets or shares, data processing systems utilized to track, sell, distribute or validate Lottery tickets or shares, any goods or services involving the determination or generation of winners in any Lottery game or any auditing services. See Section 67-7409(11), Idaho Code. ()
- 25. Net Income.** Lottery revenue and non-Lottery revenue, less expenses, as defined by Title 67, Chapter 74, Idaho Code. See Section 67-7409(12), Idaho Code. ()
- 26. On-Line System.** The Lottery's on-line computer wagering system consisting of ticket issuing terminals, central processing equipment, and a communications network. ()
- 27. Person.** An individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals, including departments, commissions, agencies and instrumentalities of the State of Idaho, and counties and municipalities and agencies or instrumentalities thereof. See Section 67-7406(13), Idaho Code. ()
- 28. Play Symbols.** The numbers or symbols appearing in the designated area under the removable covering on the front of the ticket. ()
- 29. Prize.** Any award, financial or otherwise, awarded by the Director for successfully playing a Lottery game. ()

30. Redemption Value. The sum total of all winnings upon the ticket presented for payment. See Section 67-7404(14), Idaho Code. ()

31. Request for Proposal. The solicitation of competitive proposals, or offers, to be used in part as a basis for making an acquisition, or entering into a contract, when specification and price will not necessarily be the predominant award criteria. ()

32. Retailer Validation Code. The symbols found under the removable rub-off covering over the play symbols on the front of each ticket. ()

33. Sensitive Procurement. Those procurement actions or contracts, other than “major procurements,” that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of the Lottery. A typical example of this class of procurement is the acquisition of security systems that protect the security and integrity of the Lottery. ()

34. Share. Any intangible evidence of participation in a game conducted by the Lottery. See Section 67-7404(15), Idaho Code. ()

35. State Lottery Act of 1988 or Act. The Act approved by the Legislature creating the Lottery, which became effective November 23, 1988, and any amendments to it, which is codified at Chapter 74, Title 67, Idaho Code. ()

36. Subcontractor. Any third party not in the employment of a Contractor, who is performing all or part of the work in the Contractor’s Agreement with the Lottery under a separate contract with the Contractor. The term “subcontractor” means subcontractor(s) of any tier. ()

37. Temporary Retailer. A retailer under contract with the Lottery for a temporary or seasonal period. A temporary contract may be subject to special conditions or limitations that the Director deems prudent. These limitations or conditions may include, but are not limited to: ()

- a. Length of ticket sale period; ()
- b. Hours or days of sale; ()
- c. Location of sale; ()
- d. Specific persons who may sell Lottery tickets; ()
- e. Specific sporting, charitable, social, or other special events where Lottery tickets may be sold. ()

38. Provisional Retailer. A retailer granted a provisional certificate in accordance with these rules. A provisional certificate may contain some or all of the restrictions of a temporary retailer and additional restrictions deemed necessary by the Director. ()

39. Ticket. Any tangible evidence issued by the Lottery to provide participation in a game conducted by the Lottery. A Lottery ticket or share issued by the Lottery for sale to the general public. See Section 67-7704(16), Idaho Code. ()

40. Ticket Bearer. The person who has signed the ticket or has possession of the unsigned ticket. ()

41. Ticket Validation Number or Validation Number. The multidigit number found on the front of the ticket. It is either uncovered or found underneath the “Do Not Remove” area on the ticket or any stub. ()

42. Total Annual Revenue or Annual Revenue. The sum of all of the Lottery’s proceeds and accrued

interest earned and recognized from the sale of tickets in a fiscal year. Total annual revenue does not include any income that is characterized as a reduction or recovery of expenses. ()

43. Unclaimed Prize. Any award, financial or otherwise, of more than twenty-five dollars (\$25) for which there is physical, tangible evidence of eligibility but for which the prize has not been paid within one (1) year. ()

44. Value. The face value of a ticket. See Section 67-7404(17), Idaho Code. ()

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS (RULE 100).

01. Purpose. These rules are established by the Commission to define and regulate the operation and administration of the Lottery and the Commission. ()

02. Lottery Commission. The Idaho State Lottery Commission (the "Commission") is charged with the authority and duty to regulate Lottery activities in the State of Idaho, consistent with the Constitution and the enabling legislation. The headquarters of the Commission and of the Lottery is in Boise. ()

03. Powers and Duties of the Commission. ()

a. Rule Promulgation. The Commission promulgates rules and conditions under which the statewide Lottery will be conducted. Subjects covered in such rules include but need not be limited to: ()

i. The types of Lottery games to be conducted; ()

ii. The prices of tickets in the Lottery; ()

iii. In general the numbers and sizes of prize disbursements, the manner and frequency of prize drawings, and the manner in which payment will be made to holders of winning tickets; ()

iv. The locations at which Lottery tickets may be sold, the manner in which they are to be sold, and contracting with Lottery vendors, retailers and contractors; ()

v. The manner in which Lottery sales revenues are to be collected; ()

vi. The amount of compensation to be paid to retailers; ()

vii. Other areas relating to the efficient and economical operation and administration of a statewide Lottery consonant with the public interest. ()

b. Delegation to Director. In addition to those duties assigned to the Director in the Lottery Act, the Commission may, insofar as is consistent with the Constitution and the Lottery Act, delegate the performance of executive or administrative functions to the Director. ()

04. Time and Place of Meetings. ()

a. Regular meetings of the Commission must be held at least quarterly; the date, time, and place will be set by the Commission and, if possible, with at least two (2) weeks' advance notice. The Commission may meet with the Director to make recommendations and set policy, to approve or reject reports of the Director, to adopt rules, and to transact other business. ()

b. Additional meetings necessary to discharge the business of the Commission may be called from time to time by the chairman or by a quorum of the Commission. ()

05. Open Meeting Law. All meetings of the Commission shall be held in accordance with Idaho's

Open Meeting Law, Sections 67-2340 et seq., Idaho Code, and in accordance with Section 67-7442, Idaho Code. All meetings of the Commission are open to the public, except when executive session is allowed for part of the meeting under the Open Meeting Law. ()

06. Director. The Director is responsible for the operation of the Lottery and for managing the affairs of the Commission. A Deputy Director designated by the Director may act for the Director in the absence of the Director. If there is a vacancy in the office of Director, the Commission will designate as Deputy Director as Interim Director until the vacancy can be filled. ()

07. Powers and Duties of the Director. ()

a. The Director has the authority to implement and execute procedures that he or she may deem appropriate for the efficient administration of the Lottery. The Director may also recommend rules governing the establishment, administration, and operation of the Lottery to the Commission for its approval; ()

b. The Director is authorized to employ sufficient staff as may be required to carry out the functions of the Commission and the Lottery; ()

c. The Director may contract with retailers for the sale of Lottery games and must suspend or terminate any contract in accordance with the provisions of the Act and the rules of the Commission; ()

d. The Director must continuously study and investigate all matters pertinent to the efficient operation of the Lottery; and ()

e. The Director must maintain full and complete records of the operation of the Lottery. The Director must report on at least a monthly basis to the Commission and to the Governor on the status of the Lottery. ()

f. The duties and responsibilities of the Director that are not otherwise specified in Idaho law or the rules adopted by the Commission may be maintained as a policy of the Commission for the purpose of establishing a working relationship between the Director and the Commission. ()

08. Lottery Offices. ()

a. The principal office of the Lottery is located at 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. ()

b. The Lottery may also operate other offices and facilities throughout the State as are appropriate to fulfill its responsibilities under law. ()

09. Lottery Budgets and Financial Statements. The Director must: ()

a. Submit quarterly financial statements to the Commission, the Governor, the State Treasurer, and the Legislature. The quarterly financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The quarterly financial statements must be provided within forty-five (45) days of the last day of each quarter. ()

b. Submit annual financial statements to the Commission, the Governor, the State Treasurer, and each member of the Legislature. The annual financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The annual financial statements must be examined by the State Controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and must be provided within ninety (90) days of the last day of the Lottery's fiscal year. ()

10. Contingency Reserve. ()

a. The Director may, with the approval of the Commission, allot from moneys available to pay administrative expenses an amount to be transferred to a contingency reserve established by the Commission. The money allotted can include amounts retained to fund specific future expenses or can be undesignated as to purpose. ()

b. When the Commission approves a contingency reserve, it must determine the amount necessary for a reasonable contingency reserve. ()

c. Upon approval of the Commission, money in the contingency reserve may be authorized to be used for specific purposes of the Lottery or to be used to fund general administrative expenses if there is a revenue shortfall. Expenses funded from the contingency reserve cannot be included with other administrative expenses for purposes of determining compliance with current administrative expenditure limitations. ()

11. Special Drawings. ()

a. The Director may authorize special drawings to award prizes, such as vacation trips, automobiles, or other tangible items in addition to, or in lieu of, cash awards. The Director will determine the nature and number of awards for each special drawing. Special drawings for promotional awards may be held independently of the Lottery's regular prize drawings or may be incorporated therein. The promotional drawings may be cosponsored and conducted in conjunction with Lottery retailers or other independent businesses. In view of the temporary nature and indeterminate frequency of the promotional awards drawings, a press announcement and normal advertising media will be used to inform the public of the rules and prizes for each special drawing. ()

b. Notwithstanding the provisions of Paragraph 100.11.a. of this rule, the Director may, at his or her discretion, award in-lieu equivalent cash awards to the winners of tangible items, in those instances where the Director deems it appropriate. The value of noncash items must be estimated by using either the cost of the item or its fair-market value. ()

12. Retail Drawings. The Director and his designee may authorize Retailers to conduct drawings using non-winning Idaho Lottery tickets in conjunction with a particular Lottery game. Such authorization must be in writing, must specify the type of drawing to be conducted and must set forth the methodology to be used in conducting the drawing. ()

13. Retail Ticket Price Discounts. ()

a. Notwithstanding the price adopted for the retail sale of a ticket in the rules for a specific Lottery game, the Commission may offer discounts for the retail sale of Lottery tickets. ()

i. Discounts for the retail sale of Lottery tickets may be offered to the public through the use of coupons approved by the Director or by any other method approved by the Director. ()

ii. Coupons that offer a discount on the retail price of Lottery tickets must be distributed using methods designed to reach the public. These methods may include, but are not limited to, the use of direct mail, newspaper advertising, or by having coupons available at Lottery offices and retailer locations. ()

b. Rules for a promotion conducted by the Lottery using retail ticket discounts must be announced by the Director and made available at the Lottery's offices and retailer locations. ()

14. Allocation of Revenues for Prizes. ()

a. Purpose: The primary objective of the Lottery is to produce the maximum amount of net revenues to benefit the public purpose of raising revenue consonant with the dignity of the State and the sensibilities of its citizens. In accomplishing this objective, at least forty-five percent (45%) of the total annual revenues shall be returned in the form of prizes. The Lottery may design and conduct games that return more than forty-five percent (45%) of the revenues received from the sale of tickets in the form of prizes as an incentive to increase the total amount of game sales over the level of sales that otherwise would have been reasonably expected using a lower prize percentage. Games may also be authorized that return less than forty-five percent (45%) of that game's revenues so

long as forty-five percent (45%) of the total annual revenues is returned as prizes. ()

b. Prize payments: In addition to cash prize payments, money set aside by the Lottery and restricted for the payment of prizes is considered in satisfying the requirement of returning at least forty-five percent (45%) of total revenues to the public in the form of prizes. ()

c. Averaging game prize payments: Notwithstanding the prize structure adopted for a Lottery game, the amount of revenue returned for prizes among all the games offered by the Lottery may be reallocated so long as at least forty-five percent (45%) of the total revenue earned from all games is returned to the public in the form of prizes on an annual basis. The Director must report to the Commission on any reallocations made pursuant to Section 100. ()

15. Ownership of Lottery Tickets. ()

a. Except for tickets claimed jointly in accordance with the provisions of Paragraph 100.15.d. of this rule, until a name is printed or placed upon a Lottery ticket in the area designated for "name," the ticket is owned by the bearer of the ticket. When a name is placed on the ticket in the place designated for a name, the person whose name appears in that area is the owner of the ticket and is entitled to any prize attributable to the ticket. ()

b. If more than one (1) name appears on a ticket, the ticket must be claimed in accordance with the joint ownership procedures listed in Paragraph 100.15.d. of this rule. ()

c. Groups, family units, clubs, or other organizations may claim a winning ticket if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and that number is shown on the claim form. ()

d. If a ticket is claimed to be owned by two (2) or more people, the following steps will be taken for payment of the prize: ()

i. All people claiming ownership must complete and sign a request and release form. ()

ii. At least one (1) of the people claiming ownership of the ticket must sign the ticket; that person's signature must also appear on the request and release form. ()

iii. The Lottery reserves the right to issue a single prize check instead of multiple prize checks to the owners of a ticket if the value of each individual prize check would be less than fifty dollars (\$50). ()

iv. Multiple winners of a Lottery prize will be paid only through the Boise Lottery Office. Lottery retailers will not be required to pay more than one (1) winner of a single prize. ()

16. Claims. ()

a. Liability. By submitting a claim, the player agrees that the State, the Commission, the Lottery and all officials, officers, and employees of each are discharged from all further liability upon payment of the prize. ()

b. Publicity. By submitting a claim, the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes. ()

c. Claim period. Prizes may be claimed for a period of one hundred eighty (180) days after the drawing in which the prize was won or from the last day tickets from the specific instant game were sold. Prizes won through an electronic terminal are payable in accordance with the Lottery's rules. If a claim is not made for the prize within the applicable period, the prize money will be added to future prize pools, to be used in addition to prize allotments already allocated, except as provided in Section 67-7433, Idaho Code. ()

d. Invalid tickets. If a ticket presented to the Lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment. ()

e. Ticket a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature, if a signature space is provided. The person who signs the ticket is considered the owner of the ticket after signing it. Payment of any prize may be made to a person in possession of an unsigned ticket or to the person whose signature appears on the ticket. All liability of the State, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. ()

f. Time of prize payment. All prizes will be paid within a reasonable time after a claim is verified by the Lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed, unless a different date is specified for a particular game in these rules or in the specific game rules. Later installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The Lottery may, at any time, delay any prize payment in order to review a change in circumstances concerning the prize awarded, the payee, or the claim. ()

g. Prizes payable for winner's life. If any prize is for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner is deemed to be twenty (20) years. ()

17. Prizes Payable After Death of Winner. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. ()

18. Disability of Prize Winner. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. ()

19. Stolen or Lost Tickets. The Lottery has no responsibility for paying prizes attributable to stolen or lost tickets. ()

20. Effect of Game Rules. In purchasing a ticket the player agrees to comply with Chapter 74, Title 67, Idaho Code, these rules, the specific game rules, Lottery instructions and procedures, and the final decisions of the Lottery. The Lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes will be final and binding upon all participants in the Lottery. If a dispute between the Lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the Lottery may, solely at the Director's option, replace the ticket with an unplayed ticket of an equivalent price from any game or refund the price of the ticket. This will be the sole and exclusive remedy of the player. ()

21. Disputed Prizes. If there is a dispute, or it appears that there may a dispute concerning payment or ownership of any prize or any other legal issue involving the prize, the Lottery may refrain from making payment of the prize pending a final determination by the Lottery or by a court of competent jurisdiction as to the proper payment of the prize. ()

101. -- 109. (RESERVED).

110. CONFLICT OF INTEREST POLICY (RULE 110).

01. Persons Subject to Conflict of Interest Policy. Every Commissioner, the Director, every Deputy Director, and every other Lottery officer and employee is considered a person subject to this rule on conflict of interest. If a statutory provision, rule, or policy applicable to the Lottery conflicts with Section 67-7443, Idaho Code, the more stringent provision applies. ()

02. Statements for Economic Interest. Every person listed in Subsectin 100.01 of this rule, is prohibited from directly or indirectly, individually, or as a member of a partnership, or as a shareholder of a corporation, or as a participant in a joint venture or association with any other person, having an interest in dealing in a Lottery game or in the ownership or leasing of property used by or for a Lottery game. ()

03. Persons Ineligible for Prizes. Except as provided in Section 67-7440, Idaho Code, the following persons are prohibited from purchasing a Lottery ticket or share, and are prohibited from receiving a Lottery prize: ()

a. Every person listed in Subsection 110.01 of this rule; ()

b. Any officer, director, or employee of any vendor of Lottery tickets or manufacturer of equipment used to determine winners in computerized Lottery games, and any of their subcontractors who may affect the security, integrity, or honesty of the Lottery; ()

c. Any Lottery contractor or consultant under agreement with the Lottery to review the Lottery's security procedures, and any other contractor or consultant that the Director deems ineligible if the Director reasonably determines that the security, honesty, and integrity of the Lottery may be adversely affected; ()

d. An immediate family member of any individual described in Paragraphs 110.03.a., 110.03.b., or 110.03.c. of this rule who is a member of the same household. ()

04. Gift Prohibitions. ()

a. Except as provided in Paragraph 110.03.b. of this rule, every person listed in Subsection 110.01 of this rule, including members of their immediate family, are prohibited from soliciting or receiving, directly or indirectly, a gift in excess of fifty dollars (\$50) from any person who might reasonably be expected to receive a benefit from the Lottery. ()

b. In appearances before civic groups and other organizations it is permissible to accept a meal if it is offered and it is the established practice of that group or organization. ()

05. Persons Prohibited from Providing Services. The following individuals and entities are prohibited from being a Lottery game retailer, Lottery vendor, or Lottery contractor, and shall not provide audits or study services as specified by Chapter 74, Title 67, Idaho Code: ()

a. Every person listed in Subsection 110.01 of this rule; ()

b. A member of the immediate family who is a member of the same household of any person listed in Subsection 110.01 of this rule; ()

06. Outside Activities Restricted. ()

a. The Director, all Deputy Directors, and all full-time Lottery officers and employees are required to render full-time service to the duties of their positions. Part-time, temporary, or seasonal Lottery employees are required to render service to the extent of their employment with the Lottery and are prohibited from accepting other employment that may conflict with the integrity of the Lottery. ()

b. Except when assisting another state lottery, no Commissioner, Director, Deputy Director or other Lottery officer or employee shall provide consulting or contractual services, or accept an honorarium related to his or her State Lottery expertise. ()

c. When assisting another state lottery, it is permissible for the other state to reimburse normal travel costs to the individual providing the service, but no honorarium or pay to the individual will be accepted. If the other state has a policy of paying for the time of another state's employee while providing assistance, the payment shall be made to the Idaho State Lottery. ()

d. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule precludes the Lottery from negotiating contracts in which the vendor to the Lottery must bear the expense of Lottery personnel making on-site inspections of the vendor's products or manufacturing facility, auditing the vendor, or other legitimate business reasons for traveling to the vendor's place of business or site of the vendor's records, and person listed in Subsection 110.01 of this rule may engage in travel at the vendor's expense for those legitimate business purposes. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule shall prevent a Commissioner, Director, Deputy Director or other Lottery officer or employee from participating in and traveling to educational or industry related programs. Actual expenses incurred may be reimbursed by a sponsoring entity if the integrity of the Idaho State Lottery is not adversely impacted. ()

07. Conduct of Commission Business. Business transactions conducted by the Lottery Commission, the Director, Deputy Directors, and all other Lottery officers and employees with Lottery vendors should be conducted in the Lottery's offices to the maximum extent possible. ()

08. Personal Conduct. Personal conduct that is illegal or generally considered improper or brings discredit to the Lottery may be subject to appropriate disciplinary action by the Director. ()

09. Use of Lottery Property. Every person listed in Subsection 110.01 of this rule is prohibited from using any Lottery vehicle or other Lottery property for personal use, except that telephones, computers, etc., may be used for personal use in the manner ordinarily accepted in an office setting when that use does not result in additional expense to the Lottery and when that use does not contravene State policy. ()

10. Signature of Conflict Policy Required. Every person listed in Subsection 110.01 of this rule is required to sign the following conflict of interest policy as a condition of employment. "I have read and understand the pertinent Sections of Idaho Constitution Article 7, Section 10, and Chapter 7, Title 59, Idaho Code, and these conflict of interest policies."

Signature
Typed Name
Date ()

111. -- 199. (RESERVED).

200. LOTTERY CONTRACTING RULES (RULE 200).

01. Classification of Lottery Contracts. ()

a. Lottery contracts for the acquisition of materials, supplies, services and personal and professional services are classified according to relative sensitivity, which in turn determines the level of review, procurement method and the extent of disclosure required by Lottery Vendors or if no disclosure is required as in the case of Lottery contractors. The three (3) levels of procurement are as follows: ()

i. General procurements: These procurements are the least sensitive and are for materials, supplies, equipment, services and personal and professional services required to satisfy the day-to-day administrative, ministerial and operating needs of the Lottery. Disclosure filings by Lottery vendors are not normally required for this class of procurements. Lottery contractors may supply general procurement items. The Lottery may use formal invitations to bid, informal competitive quotes and requests for proposals to solicit contracts for these acquisitions, as may be determined by the Director to be the most appropriate process for a specific acquisition. ()

ii. Sensitive procurements: These procurements are of intermediate sensitivity and are for materials, supplies, equipment, services and personal and professional services which may have direct or indirect impact upon the security, credibility and integrity of the Lottery. Also included are special studies and services required by statute (demographic, communications and performance studies). The normal procedure for acquiring the materials and services is by request for proposal; however, the Director may authorize the use of competitive quotes when the cost of the acquisition is less than fifteen thousand dollars (\$15,000). The Director may prescribe special disclosure requirements governing Lottery contractors or vendors for this class of contracts. ()

iii. Major procurements: This class is the most sensitive of Lottery contracts. The Lottery Act requires these procurements to be let by the Commission and the filing of comprehensive disclosure statements by Lottery vendors. ()

b. The procedures for announcing or soliciting various classes of Lottery contracts outlined in Paragraph 200.01.a. of this rule are intended to be advisory only and do not limit the Commission or the Director in the selection of the most appropriate process to acquire a given product or service. ()

02. General Policy. ()

a. In all decisions affecting the Lottery, the Commission and Director are specifically directed by statute to take into consideration the particularly sensitive nature of the Lottery and to act in a manner to promote and insure the integrity, security, honesty and fairness of the Lottery. Additionally, the Director, in awarding contracts in response to solicitations for proposals, must award the contracts to the responsible contractor or vendor submitting the lowest and best proposal that provides maximum benefits to the State in relation to cost in the areas of security, competence, experience, timely performance, and maximization of net revenues to benefit the public purpose of the Lottery. Consistent with these statutory directives, it is the policy of the Lottery, to the extent possible, to conduct its contracting affairs in an open, competitive manner. However, the security and integrity of the Lottery are fundamental and overriding considerations in all decisions. ()

b. Although the Lottery is exempt from the provisions of Section 67-5715, Idaho Code, it is the policy of the Lottery to conduct its contracting affairs generally in accordance with the State's competitive bidding principles contained in Section 67-5715 et seq., Idaho Code, and consistent with the specific directives contained in Paragraph 200.02.a. of this rule. In implementing this policy, the Lottery reserves the right to use the procedures developed by the Department of Administration as guidelines to govern its procurement actions. Notwithstanding this reservation, the Lottery also reserves the right to use alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods that are also consistent with the public policy of encouraging competition. These methods may include, but are not limited to, specialized vendor prequalifications, competitive negotiations, performance incentives and disincentives, life cycle costing and solicitations emphasizing the request for proposal process. ()

c. When the Lottery uses a Request for Proposal (RFP) for a planned acquisition, the major considerations in determining the contract award will be the quality of the product or service, the likelihood of timely performance, and price. Qualitative factors normally address issues like the Vendor's demonstrated experience in performing comparable projects, performance credibility, availability of qualified personnel and equipment, and other special factors as may apply to a particular contract. The RFP will normally specify the criteria that will be used in the evaluation of offers and the award of the contract. ()

d. Because of the specialized character of Lottery contracts, the Lottery will not normally advertise bid proposals. Rather, the Lottery shall circulate bid and proposal requests for materials, equipment and services to vendors known to specialize in the required procurement or to vendors that the Lottery may reasonably expect to have an interest in providing such services. The Lottery will develop its mailing lists as the service need arises. ()

e. The Director may prepare standard terms and conditions to govern the acquisition of materials, supplies and services by the State Lottery. To the extent possible, the standard terms and conditions should be as uniform as possible with the standard terms and conditions governing contracts entered into by other state agencies. ()

f. All major departures from the State contracting guidelines referred to in Paragraph 200.02.b. of this rule must be approved by the Commission. If there is a conflict between the State guidelines and the Lottery's adopted rules, the Lottery's rules take precedence. ()

03. Delegation of Purchasing Authority. ()

a. Authority is granted to the Director to initiate all purchase actions and enter into and execute contracts for materials, supplies and services, on behalf of the Commission and the Lottery, except as follows: ()

i. General contracts having an estimated one-time or annual cost in excess of fifty thousand dollars (\$50,000); ()

ii. Contracts defined as Sensitive Procurements having a one-time or annual cost of more than fifty thousand dollars (\$50,000); ()

iii. Contracts defined as Major Procurements; ()

iv. All personal service contracts other than major or sensitive procurements having a one-time or annual cost in excess of fifteen thousand dollars (\$15,000); and ()

v. Procurement actions which are executed in a manner other than as provided in the contract exemption guidelines. ()

b. Notwithstanding the provisions of Paragraph 200.03.a.i. of this rule, the Commission, having once approved a planned procurement action involving a general contract acquisition, grants authority to the Director to execute a contract or contracts for the purchase or service without further action by the Commission. ()

c. The Commission, having once approved a particular contract, delegates authority to the Director to make all disbursements and payments as provided in the contract, without further, specific approval action by the Commission. ()

d. The Commission grants authority to the Director to enter into emergency contracts when immediate and decisive action is required to protect the security, credibility or integrity of the Lottery or a Lottery game. All emergency contracts let by the Director in which the cost exceeds the delegated authority contained in Paragraph 200.03.a. of this rule, must be reported to the Commission within five (5) days of the contract award date, or at the next scheduled Commission meeting, whichever is sooner. Such procurement actions may be taken without competitive bid. The dollar value of a contract awarded by the Director under the provisions of this section may not exceed fifty thousand dollars (\$50,000). Any emergency contract for a major procurement in which the cost exceeds fifty thousand dollars (\$50,000), if not acted upon at a regularly scheduled Commission meeting, is subject to Commission approval by telephonic or electronic vote. ()

04. State Central Services Agenda. As provided in Section 67-7408, Idaho Code, the Lottery may contract with other State agencies for the performance of contracting responsibilities that may be required by the Lottery. Those services may include, but are not limited to, the acquisition of Fidelity and Faithful Performance Bonds covering the Commissioners, officers, and employees of the Lottery; bonding of retailers, annuity contracts; general equipment and supplies; equipment financing agreements; and disposal of surplus Lottery property. The Lottery is bound by all statutes and rules governing the actions of the State agency when the Lottery uses such services. ()

05. Idaho Preference. ()

a. In all contracts, the Lottery will prefer goods or services that have been manufactured or produced in this State if price, fitness, availability and quality are otherwise equal. ()

b. Where a Lottery contract is awarded to a foreign contractor and the contract price exceeds ten thousand dollars (\$10,000), the contractor must promptly report to the Idaho State Tax Commission (ISTC) on forms to be provided by ISTC the total contract price, terms of payment, length of contract and such other information as the ISTC may require before final payment can be received on the Lottery contract. The Lottery must satisfy itself that the requirements of Paragraph 200.05.b. have been complied with before it issues a final payment on a Lottery contract. For the purposes of Paragraph 200.05.b., a foreign contractor is one who is not domiciled in or registered to do business in Idaho. ()

06. Equal Opportunity/Affirmative Action Contracts. The Lottery is an equal opportunity employer and also participates in any on-going State affirmative action programs. ()

07. Personal Services Contract. ()

a. Contracts between the Lottery and persons or firms such as advertising agencies, security consultants, auditors, other consultants required to conduct or prepare special studies and reports and other personal services contracts that may be required to fulfill the Lottery's responsibilities, will be awarded as outlined in the following Subsection 200.07. The award of contracts shall be either direct, informal or formal depending upon the sensitivity and estimated dollar value of the contract. In awarding personal services contracts the Lottery will consider the contractor's qualifications in similar areas of demonstrated competency, availability, experience in successfully performing comparable projects, availability of qualified personnel, likelihood of timely performance, history of cost containment, compensation requirements and other special factors that may apply to a particular contract. ()

b. Direct Award Procedures. ()

i. Any personal services contract having an estimated one-time or annual value of ten thousand dollars (\$10,000) or less may be awarded directly by the Director if the Director believes reasonable steps have been taken to obtain competitive quotes, if feasible, and the award will not negatively affect the security, credibility or integrity of the Lottery. ()

ii. The Director, with the approval of the Commission, may directly award personal services contracts in any appropriate or reasonable amount, without competitive solicitations, when the project consists of work that has been substantially described, planned or otherwise studied in an earlier Lottery contract and the new contract would be a continuation of the earlier project, provided that the earlier contract was awarded by a formal selection procedure. In awarding contracts under this provision the Commission and Director must take into account the effects of that action on the security, credibility and integrity of the Lottery and further ensure that the contract awards will not encourage favoritism or substantially diminish competition and will result in substantial cost savings to the Lottery. ()

iii. The Director, with the approval of the Commission, may directly award personal service contracts without competitive solicitation when an emergency or other condition exists that requires prompt and decisive action. The Commission and Director may exercise the provisions of Paragraph 200.07.b.iii. only when immediate action is required to correct a situation that would threaten integrity, security, honesty, and fairness in the operation and administration of the Lottery or the objective of raising net revenues for the benefit of the public purpose described in the Act. ()

c. Informal Award Procedure: The Director may award any personal services contract having an estimated one-time annual value of more than ten thousand dollars (\$10,000), but not more than twenty-five thousand dollars (\$25,000), if the following informal award procedure is followed: ()

i. An attempt must be made to obtain a minimum of three (3) competitive quotes. If three (3) quotes are not available, fewer will suffice provided a written record is made of the effort to obtain three (3) quotes. ()

ii. A written record must be maintained of the source and amount of quotes received. ()

iii. The contract award will be made to the lowest priced vendor who best meets the contract award criteria of Paragraph 200.07.a. of this rule. ()

iv. The Director must maintain work papers documenting the basis of the award to ensure that the award will not negatively affect the security, credibility and integrity of the Lottery. ()

d. Formal Award Procedures: Unless otherwise awarded under the provisions of Paragraphs 200.07.b.ii. or 200.07.b.iii. of this rule, all personal services contracts having an estimated one-time or annual cost of more than twenty-five thousand dollars (\$25,000) must be awarded according to the formal award procedure, as follows: ()

i. The Lottery shall distribute copies of the proposal (usually a Request for Proposal) to Lottery vendors or to appropriate contractors who have indicated an interest, or are anticipated to have an interest, in

providing the required service to the Lottery. Every Request for Proposal must include a response deadline date. All responses received by the Lottery after the deadline may be rejected. ()

ii. The Director will appoint an evaluation panel consisting of at least four (4) persons, at least two (2) of whom are members of the Lottery's executive staff. The Director of Security will normally be one of the appointees to evaluate the responses for any project involving the security of the Lottery. ()

iii. The evaluation panel must develop a system to evaluate the vendor responses and must score each vendor's response. Based upon this evaluation, the evaluation panel must rank the three (3) best responses and develop an award recommendation. ()

iv. The contract must be awarded to the vendor who best meets the award criteria. ()

e. No contract or other agreement for the purpose of providing services to the Lottery may be entered into, renewed, or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is not in violation of any Idaho tax laws on a form prescribed by the Idaho State Tax Commission (ISTC). A copy of the certification form may be obtained from the Lottery or the ISTC. The original certification must be retained in the Lottery's contract file as required by the State's records retention guidelines. ()

08. Major Procurements. ()

a. All bid announcements, invitations, or proposals covering major procurements must identify that the planned acquisition is classified as a major procurement. ()

b. All contracts or procurement actions classified as major procurements will be subject to the disclosure requirements specified in Section 67-7421, Idaho Code. Subsection 010.05 of these rules defines the term "control person" for purposes of disclosure requirements. The Lottery will enclose a copy of the disclosure requirements with each bid announcement or proposed request for such procurement. All disclosure filings are subject to the review and approval of the Director of Security. Failure of any Lottery vendor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. ()

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Security to rigorously enforce this requirement. ()

d. The Lottery may prequalify Lottery vendors as having met the disclosure filing requirements for major procurements. The disclosure prequalifications may be renewed by July 1 of each year. The prequalifications will satisfy the disclosure requirements of the Act, providing a certification is received from the Lottery vendor at the time of submitting any subsequent bid, proposal or offer and that no changes have occurred in the vendor's status, or that of its control persons, since the last filing of the complete disclosure statement. ()

e. Each Lottery vendor for a major procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the status of the vendor, any of its listed control persons or additional control persons, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. ()

f. Each Lottery vendor for a major procurement is required to post a performance bond with the Commission as provided in Section 67-7427, Idaho Code. The performance bond must be issued by a surety licensed to do business in this State and must be for the duration specified in the procurement announcement. ()

09. Sensitive Procurements. ()

a. All bid announcements, invitations, or Requests for Proposal covering sensitive procurements as defined in Paragraph 200.01.a.ii. of this rule must identify that the planned acquisition is a sensitive procurement and will be subject to the provisions of this rule. ()

b. The Director may establish special disclosure requirements governing State Lottery contracts for sensitive procurements that will be included in the procurement announcement. Failure of any Lottery vendor or contractor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. All disclosure filings are subject to the review and approval of the Director of Security. ()

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Security to rigorously enforce this requirement. ()

d. The Lottery may prequalify Lottery vendors as having met the disclosure requirements of this rule. The prequalification will satisfy the disclosure filing requirement providing a certification is received from the Lottery vendor, at the time of submitting any subsequent bid, proposal or offer, that no changes have occurred in the vendor's status or any of its principals since the last filing of the full disclosure statement. ()

e. Each Lottery vendor for a sensitive procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the vendor's status or any of its principals, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. ()

f. Each Lottery contractor for a sensitive procurement may be required to post a performance bond with the Lottery. The performance bond must be issued by a surety licensed to do business in this State and be for the amount and duration specified in the procurement announcement. ()

10. Advertising and Promotional Contract. Because advertising and promotional contracts involve unique marketing strategies for Lottery games, the acquisition of these services and purchases may be made directly without using competitive procurement procedures. The prudent person rule will apply in the award of these contracts or the acquisition of these services. This exemption applies to all advertising and promotional contracts, whether placed through the Lottery's advertising agency or directly by the Commission or the Director. For the purpose of this rule, advertising and promotional contracts include but are not limited to: agreements with radio and television stations, acquisition of prizes, media selection, placement of advertising contracts, promotional printing, art work and development and placement of all forms of commercials and display presentations. ()

11. Investment Contracts. The Lottery may enter into contracts for the acquisition of structured settlements, place investments or acquire annuities related to the pay-off of major prize winners without following competitive bidding procedures. The Lottery will follow the prudent person rule in the placement of such investments. ()

12. Prequalification of Annuity Vendors. ()

a. For the purpose of acquiring annuities related to the pay-off of major prize winners, the Lottery will maintain an ongoing prequalification list of annuity vendors. A vendor must first be prequalified by the Lottery before submitting a bid to the Lottery for the award of an annuity contract. Vendors may submit their qualifications to the Lottery for evaluation any time in the year. ()

b. The following criteria must be met by each vendor before being placed on the prequalification list: ()

i. Each bidder must be an insurance company licensed to do business in Idaho and have been in business for a period of two (2) years immediately before submitting its bid. ()

ii. An insurance company must be a Best's "A+" rated company and must have at least a Best's Class VII financial size classification. ()

iii. Each bidder's request for qualification must contain: ()

(1) The name, address, telephone number and contact person for the bidder. ()

(2) The current financial statement of the bidder certified by an independent Certified Public Accountant. ()

(3) The names, addresses and telephone numbers of three (3) current or past annuity client references whom the Lottery may contact. ()

c. After a vendor has been prequalified, the vendor may submit bids to the Lottery in accordance with the procedures established by the Director. Furthermore, a vendor must keep its qualifications current by promptly reporting any changes in their status to the Lottery. ()

d. The total amount of annuities awarded to an insurance company cannot exceed five percent (5%) of its stated surplus. ()

e. Nothing contained in this rule will preclude a brokerage company from representing or submitting a bid on behalf of a qualified bidder. ()

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS (RULE 201).

01. Retailer's Application. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. ()

02. Fees, Procedure, and Criteria Precluding Issuing Contract. ()

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars (\$25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars (\$100) must be paid. ()

b. Certified retailers may apply for a certificate modification to allow the sale of additional Lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. ()

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. ()

03. Provisional Certifications. ()

a. The Lottery may issue a provisional certificate to an applicant for a Lottery certificate after receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery. ()

b. The following criteria preclude the Director from entering into a contract with an applicant. No contract shall be made with an applicant: ()

i. Who is under eighteen (18) years of age; ()

ii. Who will be engaged exclusively in the business of selling tickets; ()

iii. Who is an employee of the Lottery; ()

iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant and/or on-line games; ()

v. Who is not a resident of Idaho, or a corporation that is not incorporated in this Idaho or not authorized to do business in Idaho; ()

vi. Who has been found to have violated any rule, regulation, or order of the Commission or the Director; ()

vii. When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. ()

04. Criteria That May Be Grounds for Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the public interest, convenience, or trust, the Director may deny the application. ()

a. The Director must consider the financial responsibility and security of the person and the person's business or activity. The Director must consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. ()

b. The Director must consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery. ()

c. The Director must consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood. ()

d. The Director must consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director must determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible. ()

e. The Director must consider the types of products, services, or entertainment offered at the applicant's place of business. The Director must determine whether the applicant's products, services, or entertainment are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery. ()

f. The Director must consider the experience, character, or general fitness of the applicant. Entering into a contract with the applicant must be consistent with the public interest, convenience, and trust. ()

g. The Director must consider the veracity and completeness of the information submitted with the retailer's application. The Director must consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the Act and may refuse to enter into a contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction. ()

05. Duplicate Certificate. Upon the loss, mutilation, or destruction of any certificate issued by the Lottery, application for a duplicate must be made. The Lottery may require a statement signed by the retailer that

details the circumstances under which the certificate was lost, mutilated, or destroyed. ()

06. Reporting Changes in Circumstances of the Retailer. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued. ()

07. Certificate Not a Vested or Legal Right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game. ()

08. Suspension or Revocation of a Certificate. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons: ()

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Chapter 74, Title 67, Idaho Code, or these rules; ()

b. Violation of any of the provisions of Chapter 74, Title 67, Idaho Code, these rules, or the certificate terms and conditions; ()

c. Failing to file any return or report or to keep records required by the State Lottery; ()

d. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; ()

e. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; ()

f. If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; ()

g. A history of thefts or other forms of losses of tickets or revenue from the business; ()

h. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; ()

i. Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; ()

j. Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; ()

k. Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; ()

l. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; ()

m. Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this State if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery; ()

n. Failing to follow the instructions of the Lottery for the conduct of any particular game or special event; ()

o. Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; ()

p. Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; ()

q. Allowing activities on the licensed premises that could compromise the dignity of the State. ()

09. Surrender of Certificate upon Revocation. Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other Lottery property. ()

10. Certified Retailers. All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the contract and certificate, and all other directives and instructions issued by the Lottery. ()

11. Requirements for the Sale of Tickets. ()

a. Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. ()

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. ()

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. ()

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. ()

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. ()

12. Display of Certificate and Other Materials. Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold. Retailers must also display point-of-sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point-of-sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery. ()

13. Ticket Stamping. On the back of each scratch ticket sold by a retailer, the retailer must stamp the retailer's name, address, and retailer number in the area provided for retailer identification using the equipment provided by the Lottery. ()

14. Dishonored Checks and Electronic Fund Transfers. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge of ten dollars (\$10) for each dishonored check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT. ()

15. Retailer Identification Card. The Lottery may issue to each retailer an identification card which must be presented by its authorized representative when taking delivery of tickets. If the identification card is lost or otherwise misplaced or mutilated, the retailer must immediately notify the State Lottery. ()

16. Inspection of Lottery Materials and Retailer Premises. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice. ()

202. GENERAL INSTANT TICKET GAME OPERATING RULES (RULE 202).

01. Instant Games -- Authorized -- Director's Authority. The Commission hereby authorizes instant games that meet the criteria set forth in these rules. The Director is hereby authorized to select, operate, and contract relating to and for the operation of instant games that meet the criteria set forth in these rules. ()

02. Definitions. As used in Rule 202 these terms have the following definitions: ()

a. Instant Ticket Validation Bar Code. The bar code that enables retailers to validate instant tickets. ()

b. ITA System. The Instant Ticket Automation system that validates winning instant tickets. ()

c. Pack. A package of instant game tickets with a designated number of tickets that may be (but do not have to be) fanfolded and attached to each other by perforations, which perforations the retailer tears when selling a ticket, and that are packaged in plastic shrink-wrapping, foil or some similar outer wrapping material. ()

d. Pack-Ticket Number. The number printed on the ticket. A game identification number must be included in the book-ticket number. ()

e. Play Symbol Caption. The small printed material appearing below each play symbol which repeats or explains the play symbol. One (1) and only one (1) play symbol captions appears under each play symbol. ()

f. Play Symbols. Figures printed in approved ink that appear under each of the rub-off spots on the front of the ticket. ()

g. Retailer Validation Code. The small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify winners of twenty-five dollars (\$25) or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols. ()

h. Ticket. An Idaho instant game ticket. ()

i. Ticket Validation Number. The unique number on the front of the ticket. ()

03. Sale of Tickets. ()

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell Lottery tickets, except that nothing in this section shall be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. ()

b. Unless authorized by the Lottery, tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. ()

c. Nothing in this section shall be construed to prohibit the Commission from designating certain of its agents and employees to sell Lottery tickets directly to the public. ()

04. Retailer Compensation. ()

a. The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the tickets or shares. ()

b. The Director may pay instant ticket retailers a commission of up to one percent (1%) of the tickets sold by the retailer as a bonus to the retailer. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for a Lottery game. ()

05. Instant Games Ticket Price. The price of an instant game ticket will be set by the Director. No person may sell a ticket at a price other than that established in accordance with these rules. ()

06. Prize Structures. The Director will provide to all Lottery game retailers a detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery game and a close approximation of the odds of winning the prizes. ()

07. Number and Value of Instant Ticket Prizes. Lottery game prize structures, odds of winning, number of tickets, number and value of prizes, play symbol and captions used for validation will not be adopted by administrative rules. Rather, the Director will submit proposed games to the Commission, who must approve each game's general format before the initiation of each game. All instant games must be conducted in accordance with the rules of the Commission. ()

08. Official Start of Game. ()

a. Games with a prize structure adopted by the Commission pursuant to Subsection 202.07 of this rule may be started at a time selected by the Director. The Director will publicly announce the starting date of a new game by use of a press release or any other appropriate means. The Director may also issue game information that includes a description of the game, odds of winning a prize, the number and value of prizes, and the play symbols and captions used for prize validation. ()

b. Games using a prize structure other than a prize structure previously approved by the Commission must be approved by the Commission before game tickets can be sold to the public. ()

09. Determination of Winners. ()

a. Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar secure material that covers spots on the ticket. The ticket bearer must notify the retailer or the Lottery of the win and submit the winning ticket to the retailer or the Lottery as provided in these rules. The winning ticket must be validated by the Lottery through use of the validation number or by any other means specified by the Director. ()

b. Unless otherwise provided by game rules, only the highest instant prize amount will be paid on a given ticket. ()

c. No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever will be usable or playable as a part of the instant game. ()

d. The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such. ()

e. In all Lottery games, the determination of prize winners is subject to the general ticket validation requirements set forth in Subsections 200.14 et seq., and Subsection 202.11 of this rule, and the requirements set out on the back of each instant game ticket. ()

f. The length of operation of an instant game will be determined by the Director. The start date and closing date of the instant game will be publicly announced. ()

10. Payment of Prizes. The procedures for claiming instant ticket prizes are as follows: ()

a. Instant ticket prizes of six hundred dollars (\$600) or less may be claimed by one (1) of the following methods: ()

i. The claimant may present the winning ticket to any Lottery retailer. The retailer must verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, or money order, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. ()

ii. If the retailer cannot verify the claim, the claimant must fill out a claim form, which the retailer must present the completed form and the disputed ticket to the Director. If the claim is validated by the Director, a check will be forwarded to the claimant in payment of the amount due. If the claim is not validated by the Director, the claim will be denied and the claimant shall be promptly notified. ()

iii. The claimant may bring the ticket to the Boise Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery at the following address: 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. ()

b. To claim an instant prize of six hundred dollars (\$600) or more, the claimant must either bring the winning ticket to the Boise Lottery Office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). ()

c. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery Office. Upon validation by the Director, a check will be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. ()

d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game). ()

e. All prizes must be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment will be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances concerning the prize awarded, the payee, the claim, or any other matter that may have come to his or her attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter. ()

11. Ticket Validation Requirements. In addition to meeting all of the other requirements in these rules or as may be printed on the back of each instant game ticket, the following validation requirements apply with regard to instant game tickets: ()

a. To be a valid instant game ticket, all of the following requirements must be met: ()

i. The ticket must have been issued by the Director in an authorized manner. ()

ii. The ticket must not be altered, unreadable, or tampered with in any manner. ()

- iii. The ticket must not be counterfeit in whole or in part. ()
- iv. The ticket must not be stolen nor appear on any list of omitted tickets on file with the Lottery. ()
- v. The ticket must be complete and not blank (or partially blank), miscut, misregistered, defective, or printed or produced in error. ()
- vi. Under the opaque covered play area, the ticket must have play symbols and the correct corresponding captions, exactly one (1) pack-ticket number, exactly one (1) agent verification code, and exactly one (1) validation number as required by each approved set of game rules, all of which must be present in their entirety, legible, right-side up, and not reversed in any manner. ()
- vii. The validation number of an apparent winning ticket must appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number cannot have been previously paid. ()
- viii. The ticket must pass all additional confidential validation requirements established by the Director. ()
- ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. ()

b. Any ticket not passing all the validation checks in Paragraph 202.11.a. of this rule is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price) from any other current Lottery game. If a defective ticket is purchased, the only responsibility or liability of the Lottery will be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sales price from any other current Lottery game). ()

c. The Director may authorize reconstruction of an alleged winning ticket that was not received and/or cannot be located by the Lottery, provided, the person requesting reconstruction must submit to the Lottery sufficient evidence to enable reconstruction and must submit a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements of Paragraph 202.11.a. of this rule and any specific validation requirements contained in the rules for its specific game, the Director may authorize payment of the prize. Provided, the ticket will not be validated nor the prize paid before the one hundred eighty-first (181) day following the official end of that instant game. A ticket(s) validated pursuant to Subsection 202.11 will not entitle the claimant to be entered into the grand prize drawing, if any, for that or any subsequent instant game. ()

12. Prize Rights Unassignable. No person's right to a prize already drawn is assignable, except that payment of any prize already drawn may be paid to the estate of a deceased prize winner, and a person other than the prize winner may be paid the prize to which the winner is entitled as provided by court order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. ()

13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of Subsection 202.13, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. ()

14. Prizes Payable After Death or Disability of Owner. ()

a. All prizes, and portions of prizes that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a

personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. ()

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. ()

15. Governing Law. In purchasing a ticket, the customer agrees to comply with, and abide by, Idaho law, and all rules and final decisions of the Lottery, and all procedures and instructions established by the Lottery or the Director for the conduct of the game. ()

16. Discharge of All Liability upon Payment. The State of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. ()

17. Unclaimed Prize Money. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery Account. ()

18. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. ()

19. Confidentiality of Tickets. All retailers and their employees and agents are prohibited from attempting to ascertain the numbers or symbols appearing in the designated areas under the removable latex or similar secure coverings or otherwise attempting to identify winning tickets. ()

20. Official End of Game. ()

a. The official end of an instant game will be announced by the Lottery. Prizes may be claimed up to one hundred eighty (180) days after the official end of the game. If the final day of the claim period falls on a Saturday, Sunday or a State holiday, the claim period will be extended to the end of the next business day. A player may submit a winning ticket claim for prize payment up to one hundred eighty (180) days after the official end of the game. Depending on the prize amount, the ticket should be submitted to the location specified in Subsection 202.10 of this rule, "Payment of Prizes." To participate in one (1) of the Lottery's special drawings, if any, a player must redeem a ticket that qualifies for entry into that special drawing within the time limits specified by the Director. ()

b. A retailer must return to the Lottery all unsold Lottery tickets for each game within ninety (90) days of the official end of that game in order to receive credit from the Lottery as provided in retailer's contract. The Lottery has no obligation to grant credit for tickets returned after the time limit specified in the contract. ()

203. RULES FOR STATE LOTTERY'S TELEVISION GAME SHOW (RULE 203).

01. Purpose. This rule sets forth the general guidelines for the conduct of a Lottery television game show. These rules are adopted by the Commission for prospective application. ()

02. Player Entry. ()

a. A player who purchases and claims an instant ticket with the correct and approved number of symbols for eligibility to the television game show, each with the correct caption below it, automatically becomes eligible for entry to the television game show. ()

b. The player wishing to enter the television game show must follow the directions for submitting the winning ticket to the Lottery contained on the back of the ticket, including providing all identification materials required. ()

c. A winning television game show ticket can be redeemed only at the Boise Lottery office, either in person or by mail (registered mail recommended). ()

d. Upon validation of a winning ticket, the player will receive any prize provided by the particular game rules. Arrangements for participation in the television game show may be made by the Lottery staff. ()

e. After a player has claimed his or her prize, a Lottery representative will contact the player to schedule the player's appearance on the game show. The Director will determine the total number of players per show and on which game show a player will appear. ()

f. From the total number of players scheduled to appear on a show, a number of contestants will be selected at random to participate in the television game. The remaining players will make up the game show audience. ()

03. Appointment of a Proxy. ()

a. Upon approval of the Director, a player may select a proxy to appear on the player's behalf at the game show. ()

b. If a player is unable or fails to show at the scheduled date and time for appearance on the game show, the Director reserves the right to appoint a proxy to appear on the show on behalf of the player. ()

c. If a player appears at the location for the game show under the influence of intoxicants, or is a player whom the Director deems inappropriate, the Director reserves the right to appoint a proxy to appear on the show on behalf of the player. ()

d. A proxy will not be entitled to any prizes won on behalf of a player. ()

04. Description of Game. The television game show format will be determined by the Director and approved by the Commission and is played through the use of an approved game mechanism. ()

05. Playing Rules. ()

a. The television game show rules will be determined by the Director. In general, the game is played by five (5) contestants for a certain number of play rounds. The first round starts with the first contestant drawn from the audience; the second round starts with the second player drawn; and so forth. ()

b. During each play round, each of the contestants has an opportunity to play the game. Each contestant plays a game round within a period of time determined by the Director. ()

c. After the completion of all play rounds, the contestant with the most money in his/her bank earns the right to play for the grand prize. If two (2) or more contestants end with the same amount of money as the most money won after all play rounds, these contestants play a tie breaker round. ()

06. Grand Prize Round. ()

a. The contestant who has accumulated the most money will be given the opportunity to win additional prize money. The Director will determine the actual game show mechanism to be used to provide the contestant the opportunity to win the grand prize. ()

b. Regardless of the choices and the outcome of those choices made during the grand prize round, the contestant shall receive the money accumulated in his/her bank prior to the grand prize round. ()

07. Audience Participation. ()

a. The players in the audience will divide equally an amount that is identical to the total of all the money in the contestants' banks. Any money won in the grand prize round is not added to the contestants' banks for the purpose of calculating the audience prizes. Notwithstanding the total value of the money in the contestants' banks, each player in the audience is guaranteed to receive a prize. Any cash prize amount awarded to players in the audience will be rounded up to the nearest five dollars (\$5). ()

b. Each of the game contestants is guaranteed to win at least the same amount of money as each member of the player audience. ()

08. Prize Reserve. Funding for the television game show prizes will come from a prize reserve established for this purpose. The following moneys will be credited to this reserve: ()

a. One percent (1%) of instant ticket sales; ()

b. The prize share of interest income and other nonticket distributable income; ()

c. Three percent (3%) of Lotto sales up to a weekly amount of fifty thousand dollars (\$50,000). ()

09. Television Game Show Home Play. To be eligible for entry into the Lottery's "Home Play" drawing an entrant must: ()

a. Be eligible to win a prize pursuant to the statutes and rules governing the operation of the Lottery. ()

b. Collect five (5) valid non-winning instant game tickets. A valid non-winning ticket is a ticket which meets all the requirements of these rules but which does not otherwise qualify for any other prize established by the Lottery's administrative rules. ()

c. Complete the back of at least one (1) of the five (5) ticket with the entrant's name, address, and telephone number. An entry containing more than one (1) name will be disqualified. ()

d. Place the five (5) tickets in a plain white envelope no larger than four and one-eighth by nine and one-half inches (4-1/8" x 9-1/2"). An envelope which contains extraneous material, or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent, will be disqualified. ()

e. Mail the envelope with proper postage to the P.O. Box designated by the Director. ()

f. There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above. ()

g. Entries must be received by 5:00 p.m. on the day before the preliminary drawing to be eligible to participate in that week's drawing. The Director will establish the date of the preliminary drawing. Entries received after the deadline will be entitled to participation in the next home play drawing. The Director reserves the right to place an entry which was entitled to, but which was not entered into a drawing, into a subsequent preliminary drawing. ()

h. A non-conforming entry or an entry which contains one (1) or more stolen tickets will be disqualified by the Director. ()

i. The Lottery will not be responsible for any other material, including winning tickets, mailed or delivered to the home play drawing. All mail becomes the property of the Lottery and will not be returned. All entries not drawn will be destroyed without being opened on the day of the preliminary drawing. ()

j. The Director will establish and approve the procedures for the selection of entrants into the weekly drawing. The drawing will be open to the public and be witnessed by an independent certified public accountant. ()

k. The Director will determine the number of entries drawn each week who will become home play contestants. Each Home Play contestant will be matched with an on-air contestant. ()

l. The Director will determine the number of entries drawn each week who will become players on a future Money Game television show. ()

m. The odds of being drawn as a home play contestant or future Television Game Show player depend on the number of entries received by the Lottery each week. ()

n. Notwithstanding the requirements of this rule, the Director reserves the right to waive minor informalities. The determination of what constitutes an informality shall reside solely with the Director. ()

204. ON-LINE COMPUTER GAMES (RULE 204).

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. ()

02. Definitions. As used in Rule 204 these terms have the following definitions: ()

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public, and are required to be witnessed by an independent certified public accountant. The equipment used in any drawing must be inspected by the independent certified public accountant and the Director of Security or his designee both before and after the drawing. All drawings and inspections are required to be recorded on both video and audio tape. ()

b. "On-line Game." A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date(s) by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player's selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. ()

c. "On-line Retailer." A person or business authorized by the Lottery to sell on-line tickets. ()

d. "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. ()

e. "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. ()

f. "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket. ()

g. "Validation." The process of determining whether an on-line ticket presented for payment is a

winning ticket. ()

h. “Winning Combination.” One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. ()

03. Distribution of Tickets. ()

a. Tickets will be sold by retailers selected by the Director. ()

b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. ()

04. Sale of Tickets. ()

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. ()

b. Tickets may not be sold at a location other than the address listed on the retailer’s contract with the Lottery. ()

c. Nothing in this section shall be construed to prohibit the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. ()

05. On-Line Games Criteria. ()

a. The base price of an on-line ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. ()

b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game shall not be less than forty-five percent (45%) of the on-line game’s projected revenue. ()

c. The manner and frequency of drawings may vary with the type of on-line game. ()

d. The times, locations, and drawing procedures will be determined by the Director. ()

e. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. ()

06. Payment of Prizes. ()

a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise Lottery Office: ()

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant. ()

ii. If the claim is presented to the Boise Lottery Office, the claimant may be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a

winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant.

()

b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Boise Lottery Office by mail or in person. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery Office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant.

()

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a State holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account.

()

07. Drawings and End of Sales Prior to Drawings.

()

a. Drawings will be conducted in a location and at days and times designated by the Director.

()

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales.

()

c. The Director will designate a Drawing Manager who will oversee each drawing. The Drawing Manager must attest that the drawing was conducted in accordance with proper drawing procedures at the end of each drawing.

()

d. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason.

()

e. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment must be tested before and after each drawing to assure proper operation and lack of tampering or fraud. Drawings will not be held until all pre-inspection checks are completed. No prizes will be paid until after all post-inspection checks have been completed.

()

f. All drawings will be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost.

()

g. The Director will establish procedures governing the conduct of drawings for each type of on-line game. The procedures must include provisions for deviations that include but are not limited to:

()

i. Malfunction of the drawing equipment before determination of the winning combination;

()

ii. Video and/or audio malfunctions during the drawing;

()

iii. Fouled drawing;

()

iv. Delayed drawing; and

()

v. Other equipment, facility and/or personnel difficulties.

()

h. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The drawing will be videotaped for later broadcast, if broadcast time is available. The winning combination will be provided to the television network for dissemination to the public. ()

i. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by the Drawing Manager or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by the Drawing Manager or the Lottery’s designee. ()

j. The Director must delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by the Drawing Manager or the Lottery’s designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. ()

08. Validation Requirements. ()

a. To be a valid winning on-line ticket, all of the following conditions must be met: ()

i. All printing on the ticket must be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. ()

ii. The ticket must be intact. ()

iii. The ticket must not be mutilated, altered, or tampered with in any manner. ()

iv. The ticket cannot be counterfeit or an exact duplicate of another winning ticket. ()

v. The ticket must have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. ()

vi. The ticket must not have been stolen or cancelled. ()

vii. The ticket must not have been previously paid. ()

viii. The ticket must pass all other confidential security checks of the Lottery. ()

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. ()

b. A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. ()

c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. ()

d. If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or the of on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. ()

09. Retailer Duties. Retailers with an on-line terminal (OLT) must perform the following duties: ()

a. Pay costs associated with providing a telephone line or internet or similar connection that must be located within approximately five (5) feet of the terminal, as specified by the Lottery. Payment of the telephone line

or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. ()

b. Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. ()

c. Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: ()

- i.** Prizes paid; ()
- ii.** Any credit(s); and ()
- iii.** The retailer discount. ()

d. Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. ()

e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. ()

f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. ()

g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. ()

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. ()

i. Provide secure storage for OLT supplies and a secure area for the OLT. ()

j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket(s), inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. ()

k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. ()

l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. ()

10. Payment of Prizes by On-Line Retailers. ()

a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours different from normal business hours have been posted as pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. ()

b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. ()

11. Retailer Compensation. The compensation paid to on-line Lottery retailers is as follows: ()

a. A discount of five percent (5%) will be applied to on-line tickets sold from a clerk-activated terminal (CAT); ()

b. A discount of five percent (5%) will be applied to on-line tickets sold from a player-activated terminal (PAT); ()

c. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. ()

12. Retailer Settlement. ()

a. The Director may require on-line retailers to establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). ()

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. ()

13. Prize Rights Unassignable. No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. ()

14. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of Subsection 204.14 the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. ()

15. Prizes Payable After Death or Disability of Owner. ()

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. ()

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. ()

16. Discharge of State Lottery upon Payment. The State of Idaho, its agents, officers, employees and

representatives, the Lottery, its Director, agents, officers, employees and representatives shall be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. ()

17. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. ()

205. BREAKOPEN INSTANT TICKET GAMES (RULE 205).

The Commission hereby authorizes the Director to select and operate breakopen instant ticket games that meet the criteria set forth in these rules. ()

01. Definitions. As used in Rule 205 these terms have the following definitions: ()

a. "Authorized Dispensing Device" means any machine, or mechanism designed for use of vending or dispensing of breakopen instant tickets. These devices may include mechanical, electrical, electro-mechanical or other devices approved by the Director of the Lottery pursuant to Rule 100. ()

b. "Box" means a group of breakopen instant tickets with the same unique serial number. ()

c. "Breakopen Instant Ticket" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal numbers and/or symbols, a few of which numbers or symbols have been designated in advance and at random as prize winners when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize, a person pays an established price to a breakopen instant ticket retailer. ()

d. "Breakopen Instant Ticket Game" means a group of breakopen instant ticket boxes with the same thematic design and prize structure. ()

e. "Breakopen Instant Ticket Retailer" means any person who has been approved, certified and contracted with by the Lottery to sell breakopen instant tickets. ()

f. "Breakopen Instant Ticket Vendor" means any person who produces and provides breakopen instant tickets to the Lottery. ()

g. "Distributor" means any person who purchases or otherwise obtains authorized dispensing devices for use in breakopen instant ticket games from any person and sells or otherwise furnishes such device to another person for the resale of or the display or operation of that device. ()

i. As used in these rules, the term "distributor" includes a person who services and repairs authorized dispensing devices, so long as the person performing such servicing or repairs is approved by the distributor or distributor's representative, and makes no addition to, or modification or alteration of, the authorized device. ()

ii. A manufacturer who sells or otherwise furnishes authorized dispensing devices not manufactured by him to any other person for resale or for display or operation of that authorized device is also a "distributor." ()

h. “Distributor’s Representative” means any individual who represents a distributor in any of the distributor’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. ()

i. “Flare” means a vendor-provided informational sign that, as a minimum, displays the prize structure, the serial number of the sleeve in play, the odds of winning a prize, and the price of the ticket. ()

j. “Manufacturer” means any person who assembles from raw materials or subparts a completed authorized dispensing device or pieces of the authorized device for use in breakopen instant ticket activities and who sells or otherwise furnishes the same to any distributor or retail outlet. ()

k. “Manufacturer’s representative” means any person who represents a manufacturer in any one of the manufacturer’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. ()

l. “Sleeve” is a portion of a box; and is the smallest unit offered. ()

02. Breakopen Instant Ticket Special Inspection. The Director or authorized representative shall have the authority to select any breakopen instant ticket sleeve and examine the quality and/or integrity of the breakopen instant ticket sleeve in any manner, including pulling all chances remaining thereon: Provided, that if the sleeve so inspected is thereby altered by such inspection in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the Lottery at the owner’s cost for the sleeve or portion thereof, and the sleeve shall become the property of the Lottery. Provided further, that for each sleeve inspected which is found to be defective in any area related to a vendor’s quality control deficiency, a fee may be assessed by the Director against the vendor of the breakopen instant ticket. ()

03. Breakopen Instant Ticket Operation. ()

a. No person under the age of eighteen (18) years of age is allowed to play or sell any breakopen instant tickets. It is the responsibility of the retailer to determine that no unauthorized person is allowed to play or sell breakopen instant tickets. ()

b. No retailer is permitted to display or operate any breakopen instant ticket that has in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, that may deceive the public or that affects the chances of winning or losing upon the taking of any chance thereon. ()

c. All records, reports, receipts and any unsold tickets relating to a breakopen instant ticket sleeve must be retained on the retailer’s premises at least ninety (90) days after the sleeve is removed from play and must be made available on demand to representatives of the Idaho Lottery. ()

04. Breakopen Instant Ticket Price per Play to be Posted. No breakopen instant ticket sleeve may be placed for public play unless the cost to the player for each ticket is clearly posted on the flare. The price per ticket will be determined by the Director. ()

05. Claiming of Prizes. Prizes must be redeemed on the same day as purchased at the location where the winning ticket was purchased, and prizes will be awarded in cash or by check. ()

06. Limitation on Breakopen Instant Ticket Dispensing. No ticket once placed in an authorized dispensing device out for public play may be removed from the authorized device until the sleeve is permanently removed from public play, except only: ()

a. Those tickets actually played by consumers; ()

b. Those tickets removed by representatives of the Lottery inspecting the device or sleeve; and ()

c. Those tickets temporarily removed during necessary repair or maintenance of the device. Excepting ()

only tickets removed under parts 06.b and 06.c of this rule, once a ticket has been removed from public play it cannot again be put out for public play. ()

07. All Devices Must Comply with Requirements. No retailer may display or put out for play, and no distributor or manufacturer or their representatives may sell or otherwise furnish any device for the dispensing of breakopen instant tickets, unless the device is approved for use by the Director, thereby making it an authorized device. ()

a. No person may sell or transfer to another person in this state or for use within this state, nor shall place out for public play, any device for the dispensing of breakopen instant tickets that is not constructed to allow a consumer to clearly see each ticket within the device before playing the device. ()

b. No person may put out for public play any device for the dispensing of breakopen instant tickets that is not constructed to provide for at least one (1) sleeve in play in the device. ()

c. No person may put out for public play any device for the dispensing of breakopen instant tickets that is designed, used, or constructed, in a manner that detracts from the breakopen instant tickets or that is deceptive in any way, as determined by the Director. ()

08. Breakopen Instant Ticket Series Assembly and Packaging. Vendors of breakopen instant ticket games must manufacture, assemble and package each game sleeve in a manner that none of the winning tickets, nor the location or approximate location of any of the winning tickets, can be determined in advance of opening the tickets. All breakopen instant ticket games must be approved and will be distributed and sold exclusively by the Lottery. The Lottery may adopt quality control standards for the manufacture of breakopen instant ticket games. ()

09. Standards for Flares. The flare advertising prizes available from the operation of any sleeve of breakopen instant tickets must: ()

a. Be placed near or upon the upper face, or on the top, of any authorized device used to dispense breakopen instant tickets in a manner clearly visible to the public; and ()

b. Clearly set out each of the prizes available and the combination of numbers or symbols which win prizes. Each flare describing the prizes and winning number or symbols for a sleeve of breakopen instant tickets in play must clearly set out the sleeve number assigned to that sleeve by the vendor. The sleeve number will be placed upon the flare by the vendor. The total number of tickets originally in the sleeve will be placed upon the flare by the vendor. ()

10. Prize Structure. The Director will establish a prize structure detailing the estimated number of prizes that are expected to be awarded in each sleeve and a close approximation of the odds of winning such prizes. ()

11. Retailers Eligible to Sell Breakopen Tickets. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must file an application on forms provided by the Director. The forms shall include, but are not limited to, requiring an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. ()

12. Retailer Application and Fee. All applications to sell breakopen instant tickets must be accompanied by a nonrefundable fee of twenty-five dollars (\$25). If a certificate is awarded to sell only breakopen instant tickets, no additional certificate fee must be paid. ()

13. Certificate Modification. ()

a. Certified instant ticket retailers may apply for a certificate modification to allow for the sale of breakopen instant tickets. A current instant ticket retailer will be required to complete an additional application or application supplements. If a current instant ticket retailer requests that the existing certificate be modified to allow for the sale of breakopen instant tickets, no additional application fee will be charged upon approval. ()

b. Certified breakopen instant ticket retailers may apply for a certificate modification to allow for the sale of instant tickets. A current breakopen instant ticket retailer will be required to complete an additional application or application supplements. If a current breakopen instant ticket retailer requests that the existing certificate be modified to allow for the sale of instant tickets, an additional certificate fee of one hundred dollars (\$100) will be charged upon approval. ()

14. Retailer Compensation. ()

a. The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the breakopen instant tickets. ()

b. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. ()

206. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0702

NOTICE OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For information regarding participation by telephone or scheduling of additional meetings, contact Phyllis Heitman at (208) 373-0256 or phyllis.heitman@deq.idaho.gov. Requests to participate by telephone must be made by September 21, 2007.

September 27, 2007 - 9:00 a.m. to Noon
Department of Environmental Quality
Conference Room D
1410 N. Hilton, Boise, Idaho

DESCRIPTIVE SUMMARY: The Treasure Valley Air Quality Plan as developed by the Treasure Valley Air Quality Council and accepted by the Idaho Legislature directs the Idaho Department of Environmental Quality (DEQ) to enter into negotiated rulemaking to develop a rule requiring Stage 1 vapor recovery be installed and operational at all retail gasoline stations in Ada and Canyon Counties by December 31, 2011. The Treasure Valley Air Quality Plan, dated February 27, 2007, can be viewed at <http://www.treasurevalleyair.org/>.

Installation and operation of Stage 1 vapor recovery will reduce volatile organic compound (VOC) emissions by over 1,000 tons per year. This constitutes a 97% reduction from the source, which will result in a significant reduction of VOCs throughout the Treasure Valley. Such a reduction should reduce ozone and PM2.5 precursor compounds in the ambient air.

The text of the rule will be developed by DEQ in conjunction with a negotiating committee open to any persons having an interest in the development of this rule. Members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, public officials, or members of the public who have an interest in the regulations of air emissions from sources in Idaho may wish to participate in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the Idaho Administrative Bulletin and present the final proposal to the Board of Environmental Quality for adoption of a pending rule. If adopted, it is anticipated the pending rule will be reviewed by the 2009 Idaho Legislature.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the negotiated rulemaking, contact Leonard Herr at (208) 373-0550 or leonard.herr@deq.idaho.gov.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. For information regarding submission of written comments on drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 27th day of July, 2007.

Paula J. Wilson, Attorney General's Office
Environmental Quality Section
1410 N. Hilton
Boise, Idaho 83706-1255

(208)373-0418 / Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS

DOCKET NO. 58-0107-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 88, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

October 2, 2007 at 3:30 p.m.
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: Under House Bill 33, the 2007 Idaho Legislature enacted the Idaho Underground Storage Tank Act, Chapter 88, Title 39, Idaho Code, which implements the federal Underground Storage Tank Compliance Act of 2005. DEQ has been directed by the Idaho Legislature to promulgate rules necessary to regulate underground storage tank (UST) systems in the state of Idaho. This proposed rule includes the following:

1. Incorporation by reference of 40 CFR Part 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, except that references to hazardous substances are expressly excluded from incorporation by reference;
2. Inspection and certification of petroleum USTs;
3. Owner and operator training;
4. Release prevention, detection, compliance and enforcement;
5. Delivery prohibitions;
6. Additional measures to protect ground water, such as secondary containment for new or replacement petroleum UST systems or connecting pipes; and
7. Development of a database system for petroleum UST information status.

Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, representatives of the Idaho Petroleum Storage Tank Fund Board of Trustees, and citizens of the state of Idaho may be interested in commenting on this proposed rule. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2007 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2008 legislative session if adopted by the Board and approved by the Legislature.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. On July 4, 2007, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 07-7, page 89, and a preliminary draft rule was made available for public review. One meeting was held on July 19, 2007. Several members of the public attended the meeting and submitted written comments which resulted in revisions to the preliminary draft rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208)373-0278 or Rick Jarvis at rick.jarvis@deq.idaho.gov, (208)373-0247.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 3, 2007.

Dated this 3rd day of August, 2007.

Paula J. Wilson, Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418 / Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0107-0701

IDAPA 58
TITLE 01
CHAPTER 07

58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS

000. LEGAL AUTHORITY.

Chapters 1 and 88, Title 39, Idaho Code, grant authority to the Board of Environmental Quality to promulgate rules for the regulation of underground storage tank systems within the state of Idaho. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems." ()

02. Scope. These rules establish standards and procedures necessary for the regulation of petroleum underground storage tank systems. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. ()

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ()

003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ()

004. INCORPORATION BY REFERENCE.

Unless expressly provided in Subsection 004.02, any reference to any document identified in Subsection 004.01 shall constitute the full adoption by reference into these rules. ()

01. Documents Incorporated by Reference. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280, revised as of July 1, 2007.

- ()
- 02. Exceptions to Documents Incorporated by Reference.** ()
- a.** The following items are expressly excluded from incorporation by reference into these rules:()
- i.** The definition of “Hazardous substance UST system” in 40 CFR 280.12 and use of this term or regulation regarding hazardous substance in 40 CFR Part 280; and ()
- ii.** 40 CFR 280.42 and any reference to 40 CFR 280.42 in 40 CFR Part 280. ()
- b.** In the event of conflict or inconsistency between the language in these rules and that found in 40 CFR Part 280, these rules shall prevail. ()
- 03. Availability of Referenced Material.** The federal regulations adopted by reference can be obtained at the following locations: ()
- a.** U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and ()
- b.** Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. ()
- 005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ()
- 006. CONFIDENTIALITY OF RECORDS.**
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.” ()
- 007. -- 009. (RESERVED).**
- 010. DEFINITIONS.**
For the purpose of the rules contained in IDAPA 58.01.07, “Rules Regulating Underground Storage Tank Systems,” the following definitions apply: ()
- 01. Board.** The Idaho Board of Environmental Quality. ()
- 02. Community Water System.** A public water system that serves at least fifteen (15) service connections used by year-round residents of the area served by the system or regularly serves at least twenty-five (25) year-round residents. ()
- 03. Department.** The Idaho Department of Environmental Quality. ()
- 04. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. ()
- 05. Existing.** A petroleum underground storage tank, piping, motor fuel dispensing system, facility, public water system or potable drinking water well is in place when a new installation or replacement of a tank, piping, or motor fuel dispensing system begins. ()
- 06. EPA.** The United States Environmental Protection Agency. ()
- 07. Installation of a New Motor Fuel Dispenser System.** The installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the petroleum underground storage tank system. ()

This equipment may include flexible connectors, risers, or other transitional components that are beneath the dispenser, below the shear valve, and connect the dispenser to the piping. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the petroleum underground storage tank system. ()

08. Installer. Any person who installs a new or replacement petroleum underground storage tank system. ()

09. Motor Fuel. Petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of petroleum-blended gasohol, and is typically used in the operation of a motor engine. This includes blended petroleum motor fuels such as biodiesel and ethanol petroleum blends. ()

10. New Underground Storage Tank. Has the same meaning as “underground storage tank or UST” in 40 CFR 280.12, except that such term includes tanks that have been previously used and meet the requirements of 40 CFR 280.20(a). ()

11. Non-Community Water System. A public water system that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. ()

12. Person. An individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. “Person” also includes a consortium, a joint venture, a commercial entity, and the United States government. ()

13. Piping. A hollow cylinder or a tubular conduit constructed of non-earthen materials that routinely contains and conveys regulated petroleum substances from the petroleum underground storage tank(s) to the dispenser(s) or other end-use equipment. It does not mean vent, vapor recovery, or fill lines that do not routinely contain regulated petroleum substances. ()

14. Potable Drinking Water Well. Any hole (dug, driven, drilled, or bored) that extends into the earth until it meets ground water which supplies water for a non-community public water system or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such wells may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities. ()

15. Product Deliverer. Any person who delivers or deposits product into a petroleum underground storage tank. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities. ()

16. Public Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “non-community water system.” ()

17. Red Tag. A tamper-resistant tag, device, or mechanism attached to the tank’s fill pipes that clearly identifies a petroleum underground storage tank as ineligible for product delivery. The tag or device shall be visible to the product deliverer and shall clearly state that it is unlawful to deliver to, deposit into, or accept product into the ineligible petroleum underground storage tank. ()

18. Repair. As it applies to petroleum underground storage tanks, piping, and motor fuel dispensers systems, repair means any activity that does not meet the definition of replace. ()

19. Replace. As it applies to petroleum underground storage tanks and piping, replace is defined as

follows: ()

a. Petroleum Underground Storage Tank. Replace means to remove an existing tank and install a new tank. ()

b. Piping. Replace means to remove and put back in one hundred (100) percent of the piping, excluding connectors, connected to a single petroleum underground storage tank system. This definition does not alter the requirement in 40 CFR 280.33(c) to replace metal pipe sections and fittings that have released product as a result of corrosion or other damage. A replacement of metal pipe section and fittings pursuant to 40 CFR 280.33(c) shall be considered a replacement under this definition only if one hundred (100) percent of the metal piping, excluding connectors, is replaced. ()

20. Secondary Containment. A release detection and prevention system that meets the requirements of 40 CFR 280.43(g). The piping shall have an inner and outer barrier and a method of monitoring the space between the inner and outer barriers for a leak or release. ()

21. Under-Dispenser Spill Containment. Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water. Such containment must: ()

a. At installation or modification, be liquid-tight on its sides, bottom, and at any penetrations; ()

b. Be compatible with the substance conveyed by the piping; ()

c. Allow for visual inspection and access to the components in the containment system; or ()

d. Be monitored for releases that meet the requirements of, 40 CFR 280.43(g), and 40 CFR 280.44(c). ()

011. – 099. (RESERVED).

100. ADDITIONAL MEASURES TO PROTECT GROUND WATER FROM CONTAMINATION.

01. Notification. An owner, operator or designee must: ()

a. Provide written notice to the Department thirty (30) days prior to the installation of a new piping system or a new or replacement petroleum underground storage tank. ()

b. Provide notice to the Department twenty-four (24) hours prior to the installation of a replacement piping system. ()

02. Notification Forms. The written notice required in Subsection 100.01.a. shall be made upon forms provided by the Department. ()

03. Requirements. Owners, operators, and installers of a new or replacement petroleum underground storage tank or piping system shall comply with the following requirements. ()

a. Each new petroleum underground storage tank, or piping connected to any such new tank, installed after February 23, 2007, or any existing petroleum underground storage tank, or existing piping connected to such existing tank, that is replaced after February 23, 2007, shall have secondary containment and be monitored for leaks if the new or replaced petroleum underground storage tank or piping is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. The following conditions are excluded, except that the conditions listed in Subsections 100.03.a.v. and 100.03.a.vi. have deferrals: ()

i. Suction piping that meets the requirements of 40 CFR 280.41(b)2(iv); ()

ii. Piping that manifolds two (2) or more petroleum underground storage tanks together; ()

- iii. Existing piping to which new piping is connected to install a dispenser; ()
- iv. Tanks identified in 40 CFR 280.10(b); ()
- v. Tanks identified in 40 CFR 280.10(c); and ()
- vi. Tanks identified in 40 CFR 280.10(d). ()

b. If the owner installs, within one (1) year, a potable drinking water well at the new facility that is within one thousand (1,000) feet of the petroleum underground tanks, piping, or motor fuel dispenser system as part of the new underground storage tank facility installation, secondary containment and under-dispenser containment are required, regardless of whether the well is installed before or after the petroleum underground tanks, piping, and motor fuel dispenser system are installed. ()

c. The notice required in Subsection 100.01 shall indicate whether the new or replacement installation is within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well. If the owner and installer certify that the installation is not within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well, the owner, operator or designee shall provide and maintain documentation showing that a reasonable investigation of water systems and drinking water wells was undertaken. A reasonable investigation includes, but is not limited to, a search of the records of: ()

- i. The public or private water service provider in the area which the new or replacement installation is located (if any); ()
- ii. The city or county in which the new or replacement installation is located; ()
- iii. The Idaho Department of Water Resources; and ()
- iv. The Idaho Department of Environmental Quality. ()

d. In the case of a replacement of an existing petroleum underground storage tank or existing piping connected to the petroleum underground storage tank, Section 100 shall apply only to the specific petroleum underground storage tank or piping being replaced, not to other petroleum underground storage tanks and connected pipes comprising such system. ()

e. Each installation of a new motor fuel dispenser system shall include under-dispenser spill containment if the new dispenser is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. ()

04. Certification. Owners and operators shall also comply with the certification requirements of 40 CFR 280.22(f) as incorporated by reference into these rules. ()

101. -- 199. (RESERVED).

200. RELEASE REPORTING REQUIREMENTS

01. Information to be Reported. ()

a. In addition to the requirements in IDAPA 58.01.02, "Water Quality Standards," Subsection 851.01, owners or operators shall report the following information regarding confirmed petroleum underground storage tank releases to the Department on forms provided by the Department: ()

- i. The release source; and ()
- ii. The release cause. ()

b. Releases less than twenty-five (25) gallons that are cleaned up within twenty-four (24) hours, and

which do not cause a sheen on nearby surface water, do not need to be reported. ()

02. Release Sources. Release sources may include, but are not limited to the following: ()

a. Petroleum Underground Storage Tanks; ()

b. Piping; ()

c. Dispensers, which include the dispenser and equipment used to connect the dispenser to the piping. A release from a suction pump or components located above the shear valve would be an example of a release from the dispenser; ()

d. Submersible turbine pump area, which includes the submersible turbine pump head (typically located in the tank sump), the line leak detector, and the piping that connects the submersible turbine pump to the petroleum underground storage tank; and ()

e. Delivery problem, which identifies releases that occurred during product delivery to the petroleum underground storage tank. Typical causes associated with this source are spills and overfills. ()

03. Release Causes. Release causes may include, but are not limited to the following: ()

a. Spills which may occur when the delivery hose is disconnected from the fill pipe of the petroleum underground storage tank or when the nozzle is removed from the vehicle at the dispenser; ()

b. Overfills which may occur from the fill pipe at the petroleum underground storage tank or when the nozzle fails to shut off at the dispenser; ()

c. Physical or mechanical damage of all types except corrosion. Examples include a puncture of the petroleum underground storage tank or piping, loose fittings, broken components, and components that have changed dimension like elongation or swelling; ()

d. Corrosion of a metal tank, piping, flex connector, or other component; and ()

e. Installation problem that occurs specifically because the underground storage tank system was not installed properly. ()

04. Requirements. The reporting required in Section 200 shall be reported to the Department within ninety (90) days of a confirmed release. The reporting requirement in Section 200 shall not relieve owners or operators from the obligation to comply with IDAPA 58.01.02, "Water Quality Standards," Section 851, "Petroleum Release Reporting, Investigation, and Confirmation," and IDAPA 58.01.02, "Water Quality Standards," Section 852, "Petroleum Release Response and Corrective Action." ()

201. -- 299. (RESERVED).

300. OWNER AND OPERATOR TRAINING REQUIREMENTS.

01. Requirements. The Department shall develop a training program to help owners and operators comply with the requirements of these rules. The training program requirements shall: ()

a. Be consistent with 42 U.S.C. 6991i(a), as amended by the Underground Storage Tank Compliance Act, (Pub.L. 109-58, title XV, sec. 1524(a), Aug. 8, 2005); ()

b. Be developed in cooperation with petroleum underground storage tank owners and tank operators; ()

c. Take into consideration training programs implemented by petroleum underground storage tank owners and operators as of August 8, 2005; ()

d. Provide for training to be conducted on site or at another mutually convenient location; and ()

e. Be appropriately communicated to petroleum underground storage tank owners and operators. ()

02. Operator Designation. For each petroleum underground storage tank system regulated under these rules, the owner or operator shall: ()

a. Designate: ()

i. The class A operator, who is the individual(s) having primary responsibility for on-site operation and maintenance of the petroleum underground storage tank system. This does not require that the class A operator be on site; ()

ii. The class B operator, who is the individual(s) having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank system. This does not require that the class B operator be on site at all times; and ()

iii. The class C operator, who is the daily, on-site individual(s) having primary responsibility for addressing emergencies presented by a spill or release from the petroleum underground storage tank system. The class C operator can be designated by the class A or B operator. ()

b. Maintain a record at the facility where the petroleum underground storage tank is located listing each person designated in Subsections 300.02.a.i. and 300.02.a.ii. ()

c. Notify the Department in writing of the individual(s) designated in Subsections 300.02.a.i. and ii. within thirty (30) days of the designation. ()

03. Training. The owner or operator of each petroleum underground storage tank system regulated under these rules shall ensure that the individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii participate in the training conducted by the Department or a state of Idaho approved third party. ()

a. The individual(s) identified in Subsections 300.02.a.i. or 300.02.a.ii. shall provide training to the persons identified in Subsection 300.02.a.iii. ()

b. The individual(s) identified in Subsection 300.02.a.iii. must be trained before assuming responsibility for responding to emergencies. ()

c. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall repeat the training within thirty (30) days if the petroleum underground storage tank system for which they have responsibility is determined to be out of compliance with these rules. ()

04. Unattended Sites. In the case of unattended sites, a sign must be posted in a location visible from the dispensers indicating emergency shut-off procedures and emergency contact phone numbers. ()

301. -- 399. (RESERVED).

400. INSPECTIONS.

01. Department Authority. In order to fulfill the statutory requirements of Chapter 88, Title 39, Idaho Code, officers, employees or representatives of the Department, or third-party inspectors as described in Subsection 400.02, are authorized to inspect petroleum underground storage tanks, contents of the tanks, and associated equipment and records relating to such tanks, contents, and associated equipment. ()

02. Third-Party Inspections. ()

a. Third-party inspectors must be certified, licensed, or registered by an approved state program to perform on-site inspections. At a minimum, third-party inspectors must meet the requirements listed in Subsections 400.02.a.i. through 400.02.a.v.: ()

i. Be trained in the state-specific inspection protocols and procedures, and perform inspections pursuant to such protocols and procedures; ()

ii. Successfully complete the state's required training program. The training program for third-party inspectors must be comparable to the training program for Department inspectors; ()

iii. Not be the owner or operator of the petroleum underground storage tank, an employee of the owner or operator of the petroleum underground storage tank, or a person having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank; ()

iv. Use an inspection report form developed by the Department. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site to fulfill the on-site inspection requirement; and ()

v. Complete and submit the inspection report to the Department in the manner and time frame established by the Department. Third-party inspectors must retain inspection related documentation in a comparable manner to Department inspectors or submit the documentation to the Department. The Department must review each inspection report and make a compliance determination for each site. ()

b. Third-party inspection procedures must contain an audit program, developed by the Department, to monitor third-party inspectors on a routine basis. The audit program must include a sufficient number of on-site inspections to effectively assess inspector performance. ()

c. If a third-party inspector fails to demonstrate to the approved state program adequate competence and proficiency to perform petroleum underground storage tank inspections, or the approved state program otherwise determines it is not appropriate for the third-party inspector to conduct on-site inspections as part of a third-party inspection program, the approved state program may take appropriate action against the third-party inspector as provided by law. ()

03. Inspections. All inspections shall be done in accordance with the provisions of Section 39-108, Idaho Code. At a minimum, an on-site inspection must assess compliance with the following: ()

a. Notification; ()

b. Corrosion protection; ()

c. Overfill prevention in place and operational; ()

d. Spill prevention in place and operational; ()

e. Tank and piping release detection; ()

f. Reporting suspected releases; ()

g. Records of tank and piping repairs; ()

h. Secondary containment where required; ()

i. Financial responsibility; and ()

j. Temporary closure. ()

401. -- 499. (RESERVED).

500. DELIVERY PROHIBITION.

01. Prohibition. Effective August 8, 2007, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into a petroleum underground storage tank at a facility which has been identified by the Department to be ineligible for such delivery, deposit, or acceptance. ()

02. Classification as Ineligible. The Department shall classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance as soon as practicable after the Department determines one or more of the following conditions exists: ()

- a. Required spill prevention equipment is not installed; ()
- b. Required overfill protection equipment is not installed; ()
- c. Required leak detection equipment is not installed; or ()
- d. Required corrosion protection equipment is not installed. ()

03. Warning of Violations. The Department may classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance if the owner or operator of the tank has been issued a written warning for any of the following violations, and the owner or operator fails to initiate corrective action within thirty (30) days of the issuance of the written warning, unless the deadline is extended by the Department: ()

- a. Failure to properly operate or maintain leak detection equipment; ()
- b. Failure to properly operate or maintain spill, overfill, or corrosion protection equipment; ()
- c. Failure to maintain financial responsibility; ()
- d. Failure to protect a buried metal flexible connector from corrosion; or ()
- e. Other conditions the Department deems appropriate. ()

04. Service of Notice. If the Department classifies a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance pursuant to Subsections 500.02 or 500.03, the Department shall provide a written notice of the determination to the owner or operator prior to prohibiting the delivery, deposit, or acceptance of a regulated petroleum substance. Notice is considered properly served by the Department in any of the following ways: ()

- a. The notice is personally delivered to the owner or operator, or if the owner or operator is not available, to an employee of the owner or operator; or ()
- b. The notice is clearly posted at a public entrance to the facility where the petroleum underground storage tank is located and a copy of the notice is also sent by first class mail to the last known address of the owner or operator. ()

05. Red-Tagging. Once service of the written notice of the ineligible determination is complete, the Department shall then attach a red tag to each fill pipe of the ineligible petroleum underground storage tank clearly identifying the tank as ineligible. The Department shall also maintain a list of all petroleum underground storage tanks that are classified as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. The Department shall make the list available to the public by posting the list on the Department's website at www.deq.idaho.gov. ()

06. Written Notice. The written notice required by Subsection 500.04 must include: ()

- a. The specific reasons or violations that led to the ineligible classification; ()
- b. A statement notifying the owner and operator that the petroleum underground storage tank is ineligible for delivery and it is unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into the petroleum underground storage tank; ()
- c. The name and address of the department representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; ()
- d. A statement regarding the right to appeal the Department's action regarding ineligible classification pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality"; and ()
- e. The option to request a compliance conference pursuant to Subsection 500.07. ()

07. Compliance Conference. The owner or operator may request a compliance conference with the Department within fifteen (15) days of receipt of the notice. A compliance conference shall be scheduled within twenty (20) days and conducted in an informal manner by the Department. At the compliance conference, the owner or operator may explain why he believes the petroleum underground storage tank should not be classified as ineligible. ()

08. Effectiveness of Ineligible Classification. The classification of a petroleum underground storage tank as ineligible shall remain in effect until the conditions cited in the notice no longer exist. If the Department determines that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance, the Department or an authorized designee shall, as soon as practicable, remove the red tag from the petroleum underground storage tank and also remove the petroleum underground storage tank from the ineligible list posted on its website. ()

09. Declining Classification. The Director may decline to classify a petroleum underground storage tank as ineligible if the Director decides that classifying the petroleum underground storage tank as ineligible for delivery, deposit, or acceptance is not in the best interest of the public. ()

a. The Director may only defer application of delivery prohibition for up to one hundred eighty (180) days after determining a petroleum underground storage tank is ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. ()

b. The Director may authorize the delivery, deposit, or acceptance of product into an ineligible petroleum underground storage tank if such activity is necessary to test or calibrate the underground storage tank or dispenser system. ()

10. Department Authority. Nothing in Section 500 shall affect or preempt the authority of the Department to prohibit the delivery, deposit, or acceptance of a regulated petroleum substance to a petroleum underground storage tank under other existing authorities. ()

11. Proper Notice. A person shall not be in violation of Subsection 500.01 if the Department fails to provide the notice required by Subsections 500.04 and 500.05. ()

12. Unlawful to Tamper with Red Tag. It shall be unlawful for any person to tamper with and/or remove the red tag without the Department's approval. The Department will also send a written approval. ()

501. -- 599. (RESERVED).

600. PETROLEUM UNDERGROUND STORAGE TANK DATABASE.

01. Maintenance. The Department shall maintain a database which provides details on the status of all petroleum underground storage tanks in the state of Idaho which are subject to regulation. The database shall be

updated no less than quarterly. ()

02. Identification. The database shall identify any tanks subject to delivery prohibition. ()

03. Petition. Petroleum underground storage tank owners or operators may petition the Department to correct any inaccurate information for their tanks and the Department shall correct any such inaccurate information upon verification. ()

04. Availability. The database shall be available to the public on the Department's website at www.deq.idaho.gov. ()

601. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Idaho Code §§ 39-105, 39-107, 39-120, and 39-126.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 26, 2007, 3 p.m.
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to clarify portions of the Ground Water Quality Rule to promote consistency in application of the rule to mining activities. The proposed rule addresses the following issues:

1. Addition of appropriate definitions necessary to improve interpretation and implementation of active mineral extraction provisions of the Ground Water Quality Rule,
2. Addition of implementation language to facilitate consistent application of the Ground Water Quality Rule to mining activities, and
3. Points of compliance for ground water quality related issues at sites with active mineral extraction.
4. Mining industry, conservation groups, environmental protection groups, state and federal land management agencies, and concerned citizens of the state of Idaho may be interested in commenting on this proposed rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2007 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2008 legislative session if adopted by the Board and approved by the Legislature.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Ground Water Quality Rule. Therefore, the proposed changes to the rule are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This rule amends portions of the Ground Water Quality Rule that address mining activities. Mining activities are regulated by the federal government. The federal government, however, does not have a regulatory program that specifically sets standards to protect ground water quality and beneficial uses of ground water as the Ground Water Quality Rule does. For this reason, DEQ believes Section 39-107D is applicable and that the amendments to the rule describe aspects of mining activities not regulated by the federal government.

The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

The proposed rule changes were initiated for clarification purposes rather than for scientific reasons. By clarifying the language in the Ground Water Quality Rule, DEQ is facilitating more efficient implementation of the Ground Water Quality Rule thereby reducing the economic burden on the regulated community. Improved rules also allow the public to better understand the requirements imposed on the regulated community to protect human health and the environment. Thus, the changes to the rule describe an administrative process to determine the application of the Ground Water Quality Rule to mineral extraction activities. The administrative process is not based on science. DEQ has, however, relied upon its experience dealing with mineral extraction activities in drafting the proposed changes to the rule.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

This provision is not applicable because the proposed rule changes are based on clarifying existing rule language. Please see explanation above.

Section 39-107D(3), Idaho Code. Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor;
- (c) Identification of each appropriate upper bound or lower bound estimate of risk;
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The proposed changes to the rule set up an administrative process for DEQ to work with the mine operator and other interested persons to determine, on a site-specific basis, the application of the standards in the Ground Water Quality Rule in order to protect human health and the environment. This administrative process is not itself based upon any analysis of risk to specific populations or receptors, but rather sets out a process by which the risk to human health and the environment will be evaluated by DEQ as it reviews a specific mining site. Therefore, DEQ has no additional information relevant to this rulemaking pursuant to Section 39-107D(3).

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. On July 4, 2007, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 07-7, page 90, and a preliminary draft rule was made available for public review. Three meetings were held in July 2007 in Boise with connections to Coeur d'Alene, Idaho Falls, and Pocatello through video conferencing. Several members of the public attended the meetings and submitted written comments which resulted in revisions to the preliminary draft rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 3, 2007.

Dated this 3rd day of August, 2007.

Paula J. Wilson

Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481/paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0111-0701

007. DEFINITIONS.

01. Active Mineral Extraction Area. The area determined by the Department that is necessary for mineral extraction. It may include excavation, overburden placement, disposal of waste rock, or reclamation at the discretion of the Department as provided in Subsection 400.06. ()

02. Affected Ground Water Area. The portion of an aquifer including and surrounding an active mineral extraction area where a naturally occurring constituent is or is predicted to be present at a concentration above the natural background level. (See Subsection 400.06.) ()

043. Agricultural Chemical. Any pesticide, nutrient or fertilizer used for the benefit of agricultural production or pest management. (3-20-97)

024. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-20-97)

035. Beneficial Uses. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ground water. (3-20-97)

046. Best Available Method. Any system, process, or method which is available to the public for commercial or private use to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

057. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-20-97)

068. Best Practical Method. Any system, process, or method that is established and in routine use which could be used to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

079. Board. The Idaho Board of Environmental Quality. (3-20-97)

0810. Cleanup. The removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition. (3-20-97)

0911. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (3-20-97)

~~102.~~ **Contaminant.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (3-20-97)

~~113.~~ **Contamination.** The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (3-20-97)

~~124.~~ **Crop Root Zone.** The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-20-97)

~~135.~~ **Degradation.** The lowering of ground water quality as measured in a statistically significant and reproducible manner. (3-20-97)

~~146.~~ **Department.** The Department of Environmental Quality. (3-20-97)

~~157.~~ **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-20-97)

~~168.~~ **Ground Water Quality Standard.** Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. (3-20-97)

~~179.~~ **Highly Vulnerable Ground Water.** Ground water characterized by a relatively high potential for contaminants to enter and/or be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (3-20-97)

~~1820.~~ **Irreplaceable Source.** A ground water source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region would be economically infeasible or precluded by institutional constraints. (3-20-97)

~~21.~~ **Mineral Extraction.** Recovery of a mineral from mineral-bearing deposits, which may include extraction, excavation, overburden placement, disposal of waste rock, or reclamation as provided in Subsection 400.06. ()

~~1922.~~ **Natural Background Level.** The level of any constituent in the ground water within a specified area as determined by representative measurements of the ground water quality unaffected by human activities. (3-20-97)

~~23.~~ **Naturally Occurring Constituent.** An element, chemical, ion, radionuclide, microorganism or other substance that occurs naturally in the ground water or in the geological formations of rock or soil surrounding the ground water in the proximity of the affected ground water area. ()

~~24.~~ **Permanent Cessation.** When no substantial mineral extraction activity has occurred for the prior three (3) years, mineral extraction may be presumed to have permanently ceased unless the operator has received a deferral from the Department as provided in Subsection 400.06.b.ii. ()

~~205.~~ **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (3-20-97)

~~26.~~ **Point of Compliance.** For the purpose of determining compliance with ground water quality standards while the provisions of Subsection 400.06 are applicable, point of compliance means a vertical surface located at the hydraulically downgradient limit of the affected ground water area. ()

~~217.~~ **Practical Quantitation Level.** The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-20-97)

228. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (3-20-97)

239. Recharge Area. An area in which water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. (3-20-97)

2430. Remediation. Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, and/or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. (3-20-97)

2531. Site Background Level. The ground water quality at the hydraulically upgradient site boundary. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER. The following process shall be used for categorizing or recategorizing an aquifer. (3-20-97)

01. Criteria for Aquifer Categories. The following criteria shall be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board: (3-20-97)

a. For Sensitive Resource aquifers: (3-20-97)

i. The ground water in an aquifer or portion of an aquifer is of a better quality than the ground water quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is considered highly vulnerable; (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer represents an irreplaceable source for the identified beneficial use(s); (3-20-97)

iv. The ground water quality in an aquifer or portion of an aquifer has been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; (3-20-97)

v. The ground water within an aquifer or portion of an aquifer is shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ground water. Hydrologic interconnections can include either natural or induced ground water recharge or discharge areas; or (7-1-98)

vi. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for additional protection. (3-20-97)

b. For General Resource aquifers: (3-20-97)

i. An activity with the potential to degrade ground water quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is currently being used for drinking water or another beneficial use which requires similar protection; or (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. (3-20-97)

c. For other resource aquifers: (3-20-97)

i. The ground water quality within an aquifer or portion of an aquifer does not meet one or more of the ground water quality standards in Section 200; and allowing the ground water quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; (3-20-97)

ii. The projected ground water quality within an aquifer or portion of an aquifer will not meet one or more of the ground water quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer; and allowing the proposed degradation will not impair existing or projected future beneficial uses; (3-20-97)

iii. Human caused conditions or sources of contamination have resulted in ground water quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; ~~or (3-20-97)~~ ()

iv. In areas where mineral extraction will occur or is occurring and ground water quality standards will be or are exceeded despite the application of all relevant best management practices, best available methods or best practical methods, as appropriate for the aquifer category, or where mineral extraction has occurred and the Department has determined pursuant to Subsection 400.06 that naturally occurring constituents in ground water are not contaminants. The categorization decision based upon these circumstances shall take into account the affect on human health and the environment, including existing or projected beneficial uses of the aquifer; or ()

iv. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. (3-20-97)

02. Petition Process. The Department or any other person may petition the Board to initiate rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." In addition to the information required in a rulemaking Petition pursuant to IDAPA 58.01.23, the following information shall be submitted in writing by the Petitioner for the identified aquifer or portion of an aquifer: (3-15-02)

a. Current category, if applicable; (3-20-97)

b. Proposed category and an explanation of how one or more of the criteria in Subsection 350.01 are met; (3-20-97)

c. An explanation of why the categorization or recategorization is being proposed; (3-20-97)

d. Location, description and areal extent; (3-20-97)

e. General location and description of existing and projected future ground water beneficial uses; (3-20-97)

f. Documentation of the existing ground water quality; (3-20-97)

g. Documentation of aquifer characteristics, where available, including, but not limited to: (3-20-97)

i. Depth to ground water; (3-20-97)

ii. Thickness of the water bearing section; (3-20-97)

iii. Direction and rate of ground water flow; (3-20-97)

- iv. Known recharge and discharge areas; and (3-20-97)
- v. Geology of the area; (3-20-97)
- h. Identification of any proposed standards, for specified constituents, which would be stricter or less strict than the ground water quality standards in Section 200, or any standards to be applied in addition to those in Section 200; and a rationale for the proposed standards. (3-20-97)

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department shall respond to the petitioner with comments within forty-five (45) days. (3-20-97)

351. -- 399. (RESERVED).

400. GROUND WATER CONTAMINATION.

01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-20-97)

- a. Causes a ground water quality standard to be exceeded; (3-20-97)
- b. Injures a beneficial use of ground water; or (3-20-97)
- c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. (3-20-97)

02. Prevention Measures. (3-20-97)

a. When a numerical standard is not exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: (3-20-97)

- i. Require a modification of regulated activities to prevent continued degradation; (3-20-97)
- ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-20-97)
- iii. Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-30-07)

(1) Best management practices, best available methods or best practical methods, as appropriate for the aquifer category, are being applied; and (3-20-97)

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-20-97)

iv. Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-20-97)

- (1) Best management practices are being applied; and (3-20-97)
- (2) The degradation will not adversely impact a beneficial use. (3-20-97)

b. The following criteria shall be considered when determining the significance of degradation: (3-20-97)

- i. Site specific hydrogeologic conditions; (3-20-97)

- ii. Water quality, including seasonal variations; (3-20-97)
- iii. Existing and projected future beneficial uses; (3-20-97)
- iv. Related public health issues; and (3-20-97)
- v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-20-97)

03. Contamination Exceeding a Ground Water Quality Standard. The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. (3-20-97)

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. (3-20-97)

05. Site-Specific Ground Water Quality Levels. The Department may allow site-specific ground water quality levels or points of compliance, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, based on consideration of effects to human health and the environment, for: ~~(3-20-97)~~(____)

- a. Remediation conducted under the Department's oversight; (3-20-97)
- b. Permits issued by the Department; (3-20-97)
- c. Situations where the site background level varies from the ground water quality standard; ~~or~~ ~~(3-20-97)~~(____)
- d. Affected ground water area in accordance with Subsection 400.06; (____)
- e. Dissolved concentrations of secondary constituents listed in Section 200. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; (____)
- f. Other situations authorized by the Department in writing. (3-20-97)

06. Mineral Extraction. (____)

a. Mineral Extraction. Naturally occurring constituents found in ground water within ~~a specified area surrounding an active mineral extraction~~ the affected ground water area, as determined by the Department, will not be considered contaminants as long as all applicable best management practices, best available methods or best practical methods appropriate for the aquifer category, as approved by the Department, are applied. ~~(7-1-98)~~(____)

i. The active mineral extraction area, to which the affected ground water area applies, shall not include excavation, overburden placement, disposal of waste rock, or reclamation unless the Department determines that such activities cannot be conducted without causing an increase in naturally occurring constituents above natural background levels notwithstanding the application of all relevant best management practices, best available methods or best practical methods, as appropriate for the aquifer category. (____)

ii. The affected ground water area shall be limited to the active mineral extraction area unless the mine operator can demonstrate an existing beneficial use of ground water or interconnected surface water will not be injured as a result of the increase in naturally occurring constituents. (____)

iii. The activities included within the active mineral extraction area and the extent of the affected

ground water area will be established by the Department based on information developed by the mine operator using methods approved by the Department. The Department will also consider technical evaluations provided by other persons if those evaluations are developed using methods approved by the Department and are provided in a timely manner. ()

b. Permanent Cessation. ()

i. The provision set out in Subsection 400.06.a. will apply for not less than four (4) years nor more than eight (8) years following permanent cessation of mineral extraction that is within the affected ground water area or when a request is made for the release of the reclamation bond for the mineral extraction, whichever comes first. ()

ii. If an operator does not plan to conduct mineral extraction for three (3) or more years but intends thereafter to continue mineral extraction and desires to defer final reclamation, the operator shall submit a written notice of intent and request for deferral to the Department. If the Department determines that the operator plans to continue mineral extraction within a reasonable period of time not to exceed five (5) years, the Department shall notify the operator of that determination in writing. If the Department determines that mineral extraction will not be continued within a reasonable period of time not to exceed five (5) years, the Department may proceed as though mineral extraction has permanently ceased, but shall notify the operator, in writing, of that determination at least thirty (30) days before taking any formal administrative action concerning the mineral extraction operation. Any determination regarding deferral would be made in coordination with the Idaho Department of Lands when appropriate. ()

c. Applicability. The provisions set out in Subsection 400.06.a. apply to new mineral extraction activities commencing after July 1, 2008. When the provisions of Subsection 400.06.a. are no longer applicable, ground water quality standards must be met within the affected ground water area unless the aquifer is recategorized, or a site-specific level or point of compliance is set under Subsection 400.05. ()

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

*The written comment deadline is September 26, 2007, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.*

IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

02-0214-0701, Rules for Weights and Measures. Updates incorporation by reference section; adds standards for and defines biodiesel; adds requirements for identification and retail labeling for biodiesel; eliminates loaf size restriction for bread to align rule to Idaho Code.

****02-0301-0701, Rules Governing Pesticide Management Plans for Ground Water Protection.** Updates the incorporation by reference and abbreviations sections; adds chemical-specific rules associated with steps to prevent DCPA from impacting Idaho's ground water.

****02-0417-0701, Rules Governing Dead Animal Movement and Disposal.** (Temp & Prop) Clarifies that harvested livestock may not be left to decompose; and requires written approval for any variance from the rule.

****02-0419-0701, Rules Governing Domestic Cervidae.** (Temp & Prop) Updates and clarifies types of official identification and adds visible identification criteria; amends perimeter fence and inventory verification requirements.

02-0612-0701, Rules Pertaining to the Idaho Fertilizer Law. Updates incorporation by reference of the AAFPCO official publication and Merck Index; allows name and address of manufacturer or guarantor to appear on the fertilizer label.

02-0636-0701, Rules Governing Karnal Bunt Disease of Wheat, Rye, and Triticale. (Temp & Prop) Repeal of chapter.

02-0639-0701, Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho. Sets forth seed potato record keeping requirements for compliance with the USDA National Seed Potato Harmonization Plan, changes chapter name, and make technical corrections.

IDAPA 06 – BOARD OF CORRECTION 1299 N. Orchard St., Ste 110, Boise, ID 83706

06-0101-0701, Rules of the Idaho Board of Correction. Updates rule to reflect current processes and procedures for housing inmates, mail handling, inmate religious practices, searches of persons and vehicles, visiting, and volunteer services; revises terminology and definitions to be consistent with Department policies and procedures; and deletes obsolete rules.

**IDAPA 09 – DEPARTMENT OF LABOR
317 W. Main St., Boise, ID 83735**

09-0106-0701, Rules of the Appeals Bureau. Removes the word “tape” in reference to the recordings made of appeals hearings.

09-0130-0701, Rules of the Benefits Bureau. Adds requirement that claimants must use their assigned reporting method when filing claim reports unless reassigned by Department.

09-0201-0701, Rules of the Disability Determinations Service (DDS). New chapter limits time period for the submission of bills by DDS vendors to receive payment to one year from the date the services are provided.

**IDAPA 11 – IDAHO STATE POLICE
PO Box 700, Meridian, ID 83680-0700**

11-0701-0701, Rules Governing Motor Vehicles – General Rules. Incorporates by reference the current national, federal and state codes, standards, and/or specifications.

**IDAPA 14 - BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS
PO Box 83720, Boise, ID 83720-0033**

14-0101-0701, Rules of Procedure of the Board of Registration for Professional Geologists. Clarifies and adds definitions; removes an exam processing fee and clarifies that application and exam fees are non-refundable; adds provisions to establish the electronically-generated seal image; reduces the time for submission of applications prior to examination and clarifies the content of personal references for application; specifically identifies the exam title; clarifies the scope, scoring and inspection of exam; reduces the time to appeal exam results; and provides a Code of Ethics.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036****16.02.10, Idaho Reportable Diseases**

16-0210-0701, Repeal of chapter.

16-0210-0702, Rewrite of chapter increases accuracy and timeliness of reporting by removing and updating language to reflect changes in disease testing, control measures, reporting requirements and citations.

****16-0219-0701, Food Safety and Sanitation Standards for Food Establishments.** Defines “intermittent food establishment” to clarify that farmers’ or community markets selling prepared foods must meet food safety standards; and adds safety standards and precautions for Norovirus.

****16-0302-0701, Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities.** (Temp & Prop)

****16-0311-0701, Rules Governing Intermediate Care Facilities for the Mentally Retarded.** (Temp & Prop)

****16-0322-0701, Residential Care or Assisted Living Facilities in Idaho.** (Temp & Prop)

Changes to these 3 chapters allow these facilities to use either the Department's criminal history and background check or another entity's check. Checks conducted by other entities, at a minimum, must be fingerprint-based and include a search of specified sources for records; and states when an individual is available to work and provides other requirements necessary to complete a check.

****16-0307-0701, Rules for Home Health Agencies.** (Temp & Prop)

****16-0315-0701, Rules and Minimum Standards Governing Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill.** (Temp & Prop)

Changes to these 2 chapter require criminal history and background checks for workers who have access or provide care to individuals living in their own home or in care facilities.

16-0501-0701, Use and Disclosure of Department Records. Expands list of individuals whose identity must not be

disclosed to include those who may report concerns to the Department about certified family homes; adds to the list of exceptions to requirements for authorizations individuals and organizations licensed by the Department; revises list of law enforcement personnel, coroners, medical examiners, funeral directors, or personal representatives who have access to the records of decedents to include the purpose for which they may use the disclosed information.

16-0505-0701, Criminal History and Background Checks in Long-Term Care Settings. (Temp & Prop) Repeal of chapter.

****16-0601-0701, Rules Governing Family and Children's Services.** (Temp & Prop) Changes include a new system for classifying the level of risk to children posed by individuals with substantiated reports of abuse, abandonment, or neglect and include a process for an individual on the Central Registry to request that the Department remove his name from the registry when the time period assigned to the individual's risk level has elapsed.

**IDAPA 18 – DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0044**

18-0101-0701, Title Insurance Definition of Tract Indexes and Abstract Records. Adds required sections and clarifies that only the geographic index is required to be complete from inception of title from the USA, while the name index (grantor/grantee index), which must include all instruments, proceedings and matters of record that affect title, does not have to be complete.

18-0103-0701, Military Sales Practices Rule. (Temp & Prop) New chapter protects active duty military personnel from abusive sales practices by identifying specific methods and practices used in selling life insurance and annuity products considered to be dishonest, unfair, deceptive or predatory.

18-0179-0701, Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities. (Temp & Prop) New chapter adopts actuarially developed mortality tables that insurers may elect to use allowing them to set reserves more accurately for more favorable risks.

**IDAPA 23 – BOARD OF NURSING
PO Box 83720, Boise, ID 83720-0061**

23-0101-0701, Rules of the Idaho Board of Nursing. Establishes qualifications and sets fees for certification of medication assistants; adopts procedures for application, certification renewal, education and training criteria; provides for competency evaluations and nurse supervision of medication assistants; and clarifies grounds for discipline of a nurse for the misuse of alcohol or drugs.

**IDAPA 27 – BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067**

27.01.01, Rules of the Idaho State Board of Pharmacy

27-0101-0701, Provides for identification of persons receiving controlled substances at a pharmacy, describes the manner of satisfying the positive identification requirement, and provides exceptions to the identification requirements.

27-0101-0702, Now requires limited service pharmacies to report data regarding controlled substance prescriptions.

27-0101-0704, Authorizes a "Technician-Checking-Technician" pilot program within the institutional pharmacies of hospitals, defines eligible hospitals and establishes the requirements and restrictions of program participation.

**IDAPA 31 – PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

31-1101-0701, Safety and Accident Reporting Rules for Utilities Regulated by Idaho Public Utilities Commission. Incorporates by reference the 2006 International Fuel Gas Code and the International Mechanical Code and the current Code of Federal Regulations - 18 CFR, Section 206.9.

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS**PO Box 7249, Boise, ID 83707**

46-0101-0701, Rules of the State of Idaho Board of Veterinary Medicine. Deletes outdated educational requirements; adds national exam procedure change; changes when certain documents must be sent to applicant for licensure; deletes a more restrictive military waiver provision for licensed individuals; clarifies filing deadlines for submission of continuing education requirements; increases by 2 months a licensing eligibility provision; changes technician application procedures; clarifies time-frame for animal examinations; adds requirement that animal patient's name be included with the owner's name on a prescription; requires surgical rooms to be separate, single-purpose rooms to minimize contamination; eliminates unnecessary information in medical records; make changes in diagnostic testing; establishes criteria for a valid veterinary/client/patient relationship in administering drugs to herd animals; eliminates unnecessary provisions on verification of death of animal; and requires that law enforcement certified euthanasia technicians provide a form signed by the supervising veterinarian.

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION**PO Box 6537, Boise, ID 83707-6573**

52.01.01, Rules of Practice and Procedure of the Idaho State Lottery Commission

52-0101-0701, Repeal of chapter.

52-0101-0702, Chapter rewrite incorporates by reference IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" for the Commission's practice and procedure requirements.

52-0102-0701, Gaming Rules of the Idaho State Lottery. Amendments bring the gaming rules into compliance with governing law.

52-0103-0701, Rules Governing Operations of the Idaho State Lottery. New chapter establishes rules for the operation of the Idaho State Lottery.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**1410 N. Hilton, Boise, Idaho 83706-1255**

****58-0107-0701, Rules Regulating Underground Storage Tank Systems.** New chapter complies with HB 33 by providing for the following: inspection and certification of petroleum USTs; owner and operator training; release prevention, detection, compliance and enforcement; delivery prohibitions; adds measures to protect ground water; develops a database system for petroleum UST information status. Also incorporates by reference 40 CFR Part 280, with exceptions. Comment by: 10/3/07.

****58-0111-0701, Ground Water Quality Rule.** Adds definitions and language necessary to improve interpretation and implementation of active mineral extraction provisions and to facilitate consistent application of the rule to mining activities; addresses points of compliance for ground water quality related issues at sites with active mineral extraction. Comment by: 10/3/07.

THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:**Division of Building Safety**

07-0301-0701, Rules of Building Safety

A NEGOTIATED RULEMAKING MEETING IS BEING HELD ON THE FOLLOWING:**Department of Environmental Quality**

58-0101-0702, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, **September 5, 2007, Volume 07-9** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
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